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- Monday, December 8, 1986

Testimony of Robert McFarlane before the House Foreign Affairs Committee
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TESTIMONY BEFORE THE HOUSE FOREIGN AFFAIRS COMMITTEE
ROBERT MCFARLANE, FORMER NATIONAL SECURITY ADVISER

MONDAY, DECEMBER 8, 1986
2:30 P.M.-EST

CHAIRMAN FASCELL: The committee will come to order. Let the Chair apologize for the delay. We've had a vote in the caucus. We expected that there might be another vote, but that was determined by the membership, so only one vote was necessary. And now, the business in the caucus is concluded. Mr. Coelho got a majority of the votes for Whip.

Welcome, Mr. McFarlane. If you would rise, please, sir, and raise your right hand. (Whereupon, the witness was sworn.)

You are sworn in. Please be seated. We are delighted to welcome you, Mr. McFarlane, and this meeting is a continuation of public hearings on the President's foreign policy initiative toward Iran and the diversion of funds for the Contras. The committee began its hearings on November 24th with testimony from Deputy Secretary Whitehead. For two hours this morning, we heard testimony from Secretary of State George Shultz about what he knew of sale of arms to Iran, what our foreign policy is, and his assessment of where we go from here. Testimony we have received to date has been to the extent that can be given in open hearing -- frank and very helpful in our efforts to fully understand exactly what happened, the reasons why and what lessons might be learned from the President's unfortunate Iranian initiative. And, of course, we have a long way to go in carrying out the responsibility of this committee in our understanding of the foreign policy apparatus, the procedures, the formulation and the implementation of our policy.

I want to stress again that the Foreign Affairs Committee is not the investigative committee of the Congress or the House on these issues. That will be up to the special investigative committee that's been designated by the leadership of both parties. However, this committee does have a responsibility with regard to foreign policy and its formulation, its implementation, and the processes by which it works, and to determine what we can in the future to prevent a further erosion of the nation's credibility

around the world. And it certainly seems to that extent, I might say at this point, that every normal process and procedure that we've understood and every agency, it seems, has been bypassed. And it certainly doesn't appear to be a good process that we want to support.

Anyway, we're happy to welcome Mr. Robert McFarlane who served with great distinction as a former assistant to the President for national security affairs; and after he left office, undertook at the President's request a secret mission to Iran. So we'd like to hear from him a full explanation of his role in the Iranian initiative and the sale of arms to Iran, what part he played, if any, in the diversion of funds from the arms sales to the Nicaraguan

Contras, and who in the White House and the administration he kept informed about all of these matters. Mr. Broomfield?

MR. BROOMFIELD: Thank you, Mr. Chairman. I also want to join you in welcoming Mr. Bud McFarlane to this afternoon's hearing. He has served, as you indicated, the country for many years in a wide variety of responsible positions. His government service has included 24 years as a United States Marine, followed by service on the staff of the Senate Armed Services Committee and the staff of the National Security Council. Mr. McFarlane capped his career with service as Assistant to the President for National Security Affairs, and as the President's personal representative in the Middle East. And because of his breadth of government service in a national security position and because of his direct involvement in activities under the Administration's Iran initiative, Mr. McFarlane is in a unique position to inform this committee of activities under that initiative, and to help the committee to evaluate them.

This hearing gives you the opportunity, Mr. McFarlane, to set forth the facts as you know them, and we welcome you here today.

CHAIRMAN FASCELL: Before I turn to the witness, let me say, Mr. McFarlane, that I expressed my appreciation to you and your attorney for your willingness to voluntarily appear before the Foreign Affairs Committee, to agree to be sworn, to make yourself available in public session to the extent that is possible, and to make yourself available for closed sessions of this committee to go further in depth on matters that cannot be touched in public session. And you may now proceed, as you wish.

MR. MCFARLANE: Thank you, Mr. Chairman. I welcome the opportunity to appear before the committee today and to respond to your very legitimate interest in the policy foundations to and conduct of recent U.S. initiatives with Iranian officials. I have a prepared statement which, with the Chairman's indulgence, I would request be entered for the record.

CHAIRMAN FASCELL: Without objection, so ordered. I've been asked, Mr. McFarlane, if you have copies of that, or should we try to make some copies.

MR. MCFARLANE: They will be here presently, Mr. Chairman. I'd

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be glad to make it available to the staff promptly on its arrival.

CHAIRMAN FASCELL: Some of the members would like to, obviously, read that as -- all right.

MR. MCFARLANE: And it's very good reading. I'd commend it to you, sir. But with seriousness, I would like in short narrative compression to make what I believe are its two central points. And they are these -- that the questions at issue regarding U.S.

initiatives toward Iran, which is the only issue of which I have firsthand knowledge -- the questions are, was it sensible to try to make contact with elements appearing to want change in Iranian policy -- people against terrorism, against the war, and conscious of the state of decline in their own country? Secondly, if it was sensible, was it feasible? Are there really such elements? If so, how can you identify them, and how ought one proceed?

On the first point, regarding whether or not it was sensible, the committee has devoted considerable time in years past to acknowledging the strategic importance of Iran. Its geography, obviously, between the Soviet Union and the Indian Ocean is an avenue that has been coveted for centuries, both for commerce and for projecting power into the Persian Gulf and beyond. For the Soviet Union to have a prevailing influence in that country, its ability to project power throughout South Asia and beyond is vastly improved. Separately, Iran's geography on the east side of the Gulf, giving it an opportunity to interdict the oil flows from the region were acknowledged this morning by the Secretary of State as centrally important to the welfare of the international economy. Furthermore, Iran's own oil resources contribute a substantial measure to fueling the global economy.

In addition, apart from the geostrategic elements of importance in Iran, we ought, also, to be interested in future because of its negative actions and policies. For the past seven years, Iran has been devoted to sponsoring a theocratic crusade throughout the Middle East, designed to basically expel the West from the area. And it has been working; for with the sponsorship of terrorism, and the encouragement and funding of fundamentalism in other countries, this effort has been accompanied over time by the steady reduction, not only in our presence, both diplomatic and commercial, but as well as the withdrawal of other countries.

In short, the West is leaving the Middle East. So we have an interest in determining whether there are any elements who recognize the problems, as they exist, and are willing to try to change. But the second question is equally important -- and that is, Are there any people like this? And I believe it is of no value for me to give a self-serving answer that there are. I would ask committee members to simply put themselves in Teheran and to examine the situation that you, as an Iranian official, face regarding both your external pressures and internal pressures, and to ask yourself whether or not you ought not have a reason to want to change Iranian policy. If you examine to the west the seven years of warfare and virtually a million casualties and no end in sight, there's value in

changing that. If you consider to the north the deployment of up to 30 Soviet divisions who are each day becoming more capable and more menacing, there's a reason to want to have an anchor to starboard, faced with that. If you look to the east and acknowledge over a 100,000 Soviet troops in occupation, the attacks against Pakistan and the very real prospect that Iran could be next -- in short, in every direction adjacent to your borders, you have reasons to be concerned. In addition, your sponsorship of this crusade has led to your isolation in the Moslem world -- antagonisms that affect not only your security but the cooperation or relationship is economic matters, whether oil or otherwise. Closer to home, internally, if you, as an official, look outside your window, you see truly hundreds of thousands of people brought to the city by the lack of sustenance that, in turn, is the product of wartime devastation of oil-producing and distributio facilities which have removed the foreign exchange that are central to your imports needed to feed the people. And finally that's coming home, with the people in the streets, the pressure growing each day.

In short, there are many, many reasons why any prudent Iranian official, looking at the conditions his country faces beyond, as well as the more tangible pressures he sees from his own people each day, to want to change. Now these conditions were very apparent to the President and to others in the Administration for a long time. But it wasn't until the summer of last year that elements that fit that description surfaced, and we became aware that elements that were both in the government and close to it, as advisors, wanted to know whether the United States had any interest in such a discourse. The President considered the matter. In its original proposal, there was no direct linkage made at all between arms and the relationship; and only over time -- but soon, within a month or so, it became clear that, while a political agenda was proposed and accepted by our side, that the elements making that proposal from within Iran -- high officials -- made clear that for them to be able to sustain that dialogue and, over time, exert any influence to change policy within Iran, they would need to strengthen themselves. And in their terms, this would require them to reach out to elements within the military, with the Revolutionary Guards, or both; and that the currency of that undertaking was arms.

Now I think this is probably the most difficult -- understandably difficult issues to understand for anybody in our country. It is not in our tradition. And yet, when one looks at countries in the Middle East -- whether in Lebanon or elsewhere, you find that historically and particularly in the recent past, the course to power, to governments, by leaders both of the right and left have been, first, to establish a power base, to build a coalition. And that that process, without exception, has required the appeal to those elements through weapons and arms. Indeed, very unlike our own system, it is the rule, not the exception, in the Middle East.

The President acknowledged, faced with this opportunity, that any elements within Iran who truly were committed to change and reform were certainly going to be very vulnerable. And he acknowledged that the transfer indirectly of weapons to support these individuals and

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allow them to build a constituency would, indeed, not be a violation of policy, but to the extent it dealt with people who opposed Iranian policy, opposed terrorism at modest levels which could not affect in the war with Iraq, nor could be applied to terrorist undertakings, would be sensible.

I'd be glad to carry on and go on with the narrative of my own involvement; or, where I had no involvement, my knowledge of subsequent events, Mr. Chairman. This is treated in my statement, and it will be made available as soon as it arrives. I welcome this chance to be here, as I've said. And I want to stress that, throughout, from the outset last July in 1985 to the time I left government in December of 1985, it was very clear that the President of the United States was motivated by two concerns. And that was the imperative of trying, if it were possible, to establish contacts with those oriented towards changing Iranian policy; and secondly, toward the recovery of Americans and other nationals held hostage. The President was profoundly concerned for the welfare of these human beings. At no time in my experience, nor since leaving government can I imagine that the President would ever countenance nor endorse any departure from law, nor of policy, in promotion of U.S. interests against terrorism.

Thank you, sir.

CHAIRMAN FASCELL: As the Chair announced earlier today, we'll pick up questioning from where we left off this morning. And, let's see, Mr. Gejdenson was last. Mr. Lantos.

MR. LANTOS: Mr. McFarlane, actions in the real world are judged by their consequences and not the motivations that lie behind them. This policy, it seems to me, was doomed from the outset, because what you were looking for was the political equivalent of the immaculate conception. What you were looking for was the attainment of goals without destroying the policy of anti-terrorism, relations with allies, relations with moderate Arab countries, relations with the Congress -- and the two simply could not be fitted together.

Now most of my colleagues here are lawyers, and there will be lots of legal questions that you will get. But I am not interested in the guilt of men. I am interested in the logic of things. What I would like to ask you to explain to this committee is how you, as a knowledgeable and experienced foreign policy professional, visualized any conceivable scenario of this Iranian escapade not fundamentally destroying the central goals of this administration, in terms of anti-terrorist policy, maintenance of the coherence of the alliance, strengthening the credibility of the United States abroad, which has been shattered, and preserving a modicum of bipartisan consensus. Earlier today, the Secretary said, and the President said, and Mr. Bush said that there have been some mistakes in the execution of the policy, but there is nothing wrong with the policy. Well I suggest the policy is an example of mind-boggling myopia, of staggering stupidity. And my simple question to you is give me the scenario that would have made this policy not destroy all the other objectives I touched on?

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MR. MCFARLANE: Mr. Lantos, I would make two points. The underlying premise of your question is that governments never change, or at least, that we should accept that a government with whom we have no relations is one with whom we should never have relations --

MR. LANTOS: That's not at all --

MR. MCFARLANE: -- and should not try to influence change over time. I would certainly agree with your implication that we do not identify -- cannot identify with the purposes nor brutality of the Iranian regime that came to power seven years ago. We do aspire to hoping that perhaps one day, elements within Iran will see it in their interest to change. But we're not naive. It was important that when reports came to us that there were such elements, that we try, as we did successfully, to validate those bona fides. And the specific, concrete evidence of that, I'll be glad to treat in a closed session. But the President was very conscious of these risks, and would not have proceeded, I am sure, had there not been very clear persuasive evidence that those with whom we would deal were against terrorism, sought an end to the war. But even there, I would take your point, one would have to consider how long one could carry it on, if, after a certain interval, you hadn't gotten the tangible evidence of good faith from these people. And I think that's why that, for my own part, acknowledging the legitimate role of the Congress, and that a milestone was reached after about six months, where we could evaluate and look back to find the evidence of concrete interest and change, that we did so. I imagine that the Administration has done so, since. I don't know. But that you can never enter an undertaking like this without expecting that if it succeeds, and you want it to succeed, ultimately it's going to have to be treated with the US Congress and the American people. Surely, I expected that.

The point you make about undermining credibility and so forth is valid, I think, if one presumes that we were dealing with the Ayatollah Khomeini, or the more radical elements of the Iranian regime. But we were not, of course. The people with whom we dealt, we insisted upon having concrete evidence of their bona fides as opposed to those policies before we went ahead.

CHAIRMAN FASCELL: Mr. Bereuter.

MR. BEREUTER: Did you ever receive any instructions from the President, or anyone purporting to speak for the President, not to inform the House or Senate select committees on intelligence of the Iranian initiative and related activities?

MR. MCFARLANE: Never in my recollection did I have any explicit proscription of that. As I've said, Mr. Bereuter, my operating assumption is that there certainly would come a time at which you would want to share, and hopefully engender the support of the Congress with it. But I understand after I left, that there were other decisions taken. I can't comment on those.

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MR. BEREUTER: All right, before I go to my second question, I would just observe that at least the heads of the intelligence agencies are required, I believe, by Section 503 of the National Security of 1947, to give prior notice before the sale of arms in the excess value of \$1 million. At the time that you left, Mr. McFarlane, the position of assistant to the President for national security affairs, have you been an employee, contractor or consultant for the United States government, or any entity thereof? And if so, what would be the nature of that relationship, employment contract or relationship?

MR. MCFARLANE: There is a tradition that former national security advisors have their security clearances carried by the National Security Council, and my predecessors and I are in that status. I -- and whatever I do is pro bona, and I have received no compensation from the National Security Council since leaving government.

MR. BEREUTER: And there is no formal employment or contractual relationship that you have had since that time of your departure with the government, is that correct?

MR. MCFARLANE: Not with the National Security Council, no.

MR. BEREUTER: Or any entity of the United States government?

MR. MCFARLANE: Well I should say, and it involves something that's not even remotely connected to this, but I have had a contractual relationship as a consultant on a --

MR. BEREUTER: A different matter?

MR. MCFARLANE: A completely different matter. It has nothing to do with this issue.

MR. BEREUTER: All right, thank you. I would finally ask if you could give us the starting date of the Iranian initiative. As you understand it, what presidential documents really started formally the Iranian initiative?

MR. MCFARLANE: We became aware of the interest of Iranian officials in this exchange in early July of last year. I have no current access to any of my records. My recollection of it is that it occurred on July the 3rd. Within a matter of days, I conveyed the information to the President and appropriate cabinet officers, and it was considered at high levels.

MR. BEREUTER: Thank you for your responses. My time has expired.

CHAIRMAN FASCELL: Let's see, who we got over here? Who's next? Mr. Berman.

MR. BERMAN: The statement is just being passed out at this

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time, and I don't think many of us had a chance to review it specifically. But I'd like to ask you a couple of questions based on some reporting by Bernard Gwertzman of the New York Times, late last week. He indicated in his article that, according to your -- that President Reagan in fact gave you a general authorization to proceed with the authorizing the sale or the resale of arms to the Iranians as early as the fall of 1985. Is that correct?

MR. MCFARLANE: I don't know the text of what you're referring to, but in sum, to say that the President authorized of the indirect delivery of small levels of arms to Iran for the purpose of strengthening elements that were against terrorism, and that was communicated ultimately to the Iranian authorities, and that in the conduct of that, that certain transfers occurred which were reviewed again in December of last year.

MR. BERMAN: When did that authorization occur?

MR. MCFARLANE: In August of 1985.

MR. BERMAN: And how was it contemplated that those arms and those exports would get to Iranian elements opposed to the terrorism that we ourselves, by our own official actions, have attributed to the Khomeini regime?

MR. MCFARLANE: First of all, the issue, before being approved, required the validation that these people were against the policies of terrorism and sought an end to the war. And so that apriori question was answered in the affirmative. And then the indirect channels, or ones that we could be glad to go into in closed session, but did not involve at that time the transfer of anything from the United States.

MR. BERMAN: Is it your understanding -- was it your understanding at the time, that these weapons -- be they offensive or defensive -- would be utilized to allow Iran to continue its war with Iraq?

MR. MCFARLANE: No.

MR. BERMAN: What was your understanding of the purpose of these arms?

MR. MCFARLANE: Well, sir, the value, utility of these systems, which could not have had a significant effect upon the war, was that it engendered the political figures involved to be able to consolidate more of a power base within Iran, and that was their purpose. It isn't unlike the way in which people, from Bashir Gemayel to others have, over time, established their ability to govern.

CHAIRMAN FASCELL: Mr. DeWine.

MR. DEWINE: Mr. McFarlane, could you explain to us what you consider to be the best case scenario for the way this event could have turned out, or the way you would have liked them to have

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turned out. You know, there's been a lot of discussion about the risk involved, and I think you've mentioned that. And everyone agrees there were risks. But what's the best we could have expected from this whole initiative?

MR. MCFARLANE: Well, it seems to me, Mr. Congressman, that from the outset the possibility of making contact with leaders of competence in Iran, competence in the political sense of being able over time to build a constituency that was powerful enough to sustain them against radical opposition might have within the space of probably two years enable them to establish such strength as to be able to alter policy without fear of violence or of losing their positions, and that over time, probably in the first instances in economic matters, the beginnings of renewed relations with us might occur. And, historically, if you look with countries with whom we have been estranged, after a period of six, seven, eight years or so, it has been manifestly clear, especially with a country of such obvious importance as Iran, that as embittered as both sides may be, the process of renewal must begin at some point. And when it begins, it must be secret because of the vulnerability of those involved. But within the space, and it varies from country to country, two years, five years or longer, that sensible people come to the fore, strengthen themselves with military elements, and gradually take on the functions of government.

MR. DEWINE: And you felt that this was a good possibility in this case?

MR. MCFARLANE: Well, I believe that it would take time, but that it was worth trying, and that a point probably within six months would be reached where you'd have to evaluate should you carry this on or not. But, yes, I believed then, I believe now, it was worth trying.

MR. DEWINE: Mr. McFarlane, in the discussion that you were involved in our government, the highest levels, could you relate to us what discussions you had in regard to the legality of this arms sale? And also, could you comment whether or not there was any discussion about the political risks, the domestic political risks, particularly considering the American peoples' hatred for--I shouldn't say hatred--but our longstanding problems with Khomeini and with Iran, that this would be--of a the countries we could sell arms to, this would probably be the country that would infuriate the American people the most.

MR. MCFARLANE: At the very beginning when the proposal was presented to the President, the appropriate cabinet officers, to include the Secretary of State, Defense, the Director of Central Intelligence and other advisers, made clear the several elements of risk, both legal, political, as you say, and raised questions, serious questions, and good questions, about whether or not it was really plausible to expect that there were reformist elements in Iran--a very thorough-going criticism, and advocacy, and these

questions of laws and of politics were thoroughly aired. It's been made clear that there was opposition, but the President decided to

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go ahead. It is also true that since that time, at least while I was in government, and I expect since, those matters have been reviewed periodically. It has always seemed to me that in undertaking a problem of great risk like this, once you satisfy yourself intellectually that there is a reasonable basis for trying, that you also have to acknowledge that if your policy works, what if you win--an important part of that has got to be going very public and engendering public grassroots support. I could go into why later if you like, but I believe that was the case here.

MR. DEWINE: Thank you very much.

CHAIRMAN FASCELL: I'm trying to keep up with this list. Who's next. Mr. Levine.

MR. LEVINE: Mr. McFarlane, in any of your conversations with the President or any other White House representatives, did you ever discuss the issue of the diversion of payments from Iran to the Nicaraguan Contras?

MR. MCFARLANE: No.

MR. LEVINE: In your discussions

with the President or other White House representatives on this issue, particularly in light of the content of the cable that we heard about this morning from Ambassador Kelley which used the phrase "hostage negotiations" time and again, did you ever discuss with the President the component that hostage negotiations played in this policy -- the extent to which this was a policy deemed to be designed to obtain a release of our hostages?

MR. MCFARLANE: With Mr. Kelly?

MR. LEVINE: No, with the President.

MR. MCFARLANE: Yes, I did. Following the President's approval in August of last year, and that being conveyed back to friendly governments in the Middle East, the policy was developed further in negotiation in the course of two or three months. But it seemed to me that after two or three months, and roughly in November when we returned from the summit in Geneva, that the original purposes here that the President had in mind of us dealing directly with Iranians wasn't being fulfilled; and secondly, that there was a skewing of the emphasis toward the hostages. And, as important as they are, the more fundamental issue was the political stability of the U.S.-Iranian relationship. And I recommended that we reorient it, as was originally planned, and start dealing directly with the Iranians and make clear that we could not be party to the transfer of U.S. weapons and would not encourage others to do so.

The President agreed, and a meeting was arranged of, first of all, the Cabinet officers, where the issue was aired again. And while I think that matters of advice to the President are better discussed in closed session, I believe the Secretary of State this

morning confirmed that the President approved, taking the position of December of last year that the United States was open to political exchanges on political issues with Iran, but that we would not be party to the transfer of arms nor encourage others to do so.

MR. LEVINE: Just following up briefly the questions that Mr. Berman asked you with regard to the elements in Iran that you felt were purchasing these weapons, was it your understanding that Khomeini either knew or approved of these purchases, number one? And number two, do you have any idea who paid for these weapons, from Iran?

MR. MCFARLANE: The answer to both would be negative, Mr. Congressman. I could not certify Ayatollah Khomeini's awareness, nor who, within Iran, paid for the systems.

MR. LEVINE: Thank you. I see my time is up.

CHAIRMAN FASCELL: Mr. McCain.

MR. MCCAIN: Thank you, Mr. Chairman, and thank you, Mr. McFarlane, for being here today. I'm very appreciative of your past service to this country, and I'm particularly appreciative of your willingness to give this committee the facts, as you know them, so that we can get this crisis behind us. It pains me enormously to contemplate that your successor tomorrow may appear before this committee and not give us the benefit of the knowledge that he has in order to help the American people and this government to get over this issue.

I also view, as I think you do, Mr. McFarlane, this problem as one of credibility -- credibility of our President and credibility of the NSC. And I'm very curious as to how it's possible, if it is possible -- or how in the world it's possible for a Lieutenant-Colonel on the NSC staff to have the authority, by himself, to divert millions of dollars in arms sales to aid to the Contras, and also to have the authority to ask private individuals to provide millions of dollars to ransom American citizens. Could you respond to that?

MR. MCFARLANE: Congressman McCain, I acknowledge that it certainly is important and urgent that a full accounting for every policy decision and policy action that has occurred become a matter of public record and shared with the Congress promptly. The events that you focus on in the second part of your question are events that occurred after I left the government, and I can't really account for how a diversion such as has been alleged may have occurred.

MR. MCCAIN: Given your experience, is it possible, and if so, how would it possible for millions of dollars in aid to the Contras to be diverted in order -- without the knowledge and approval of higher authority?

MR. MCFARLANE: Well, you're not asking whether it's theoretically possible. I understand that. Of course, it's

theoretically possible. As to whether it is plausible in contemporary circumstance, I can only comment on the basis of my knowledge of the individuals concerned. And I believe that Lt.-Col. North is a person of integrity who, while devoted to the accomplishment of a mission is certainly equally devoted to the upholding of U.S. law, and thus would not have acted contrary to U.S. law; nor would he have taken initiatives without higher authority. Similarly, Admiral Poindexter is a man of integrity whom I've known for many, many years. And it seems to me very, very unlikely that he would have acted in any way contrary to law, as well.

Above all, I am certain -- as certain as I can be, not having been there firsthand, but based upon my observation and

understanding of the President of the United States' view of these matters, he would certainly never have ordered nor condoned any violation of law whatsoever.

Beyond that, Mr. Congressman, any speculation on my part would be unwise and imprudent. One can imagine that, once a policy of supporting freedom fighters in whatever country is established and those involved -- be they the Secretary of State or Defense, as well as National Security Council members, are clearly seized with the high priority attached to the viability of these freedom fighters, can, if the system is not terribly disciplined, assume as authority the prior approvals that they may have gotten earlier on for assuring the support of freedom fighter -- and that in an ambiguous and imperfect interpolation of that authority over time, that it may -- and I again, I am purely speculating -- lead them to take actions which were not specifically authorized, but presumed to fall within the mantle of authority previously granted. I think it is really unwise of me to speculate, because I wasn't there and cannot be certain.

CHAIRMAN FASCELL: Mr. Barnes.

MR. BARNES: Thank you, Mr. Chairman. Mr. McFarlane, as you may recall, in the summer of last year -- 1985, I contacted you in an attempt to determine if the National Security Council staff was providing advice and/or fundraising support to Nicaraguan Contras. Specifically, as you remember, there were reports in the press that in 1984 Lt.-Col. North developed a plan and circulated it in the NSC for Contra funding, in the event that Congress cut off the aid. Now you, sir, were reported to have briefed President Reagan and received his oral approval of this plan. Retired General Singlaub was reportedly chosen as the authorized contact on private fundraising. The NSC staff reportedly contacted U.S. allies -- Israel, Saudi Arabia, South Korea and Taiwan -- seeking outside funding. These activities were at the time prohibited under U.S. law.

Sir, you and I exchanged correspondence at that time. One letter you sent me, dated September 12, 1985, stated, just in brief part, "I want to assure you that my actions and those of my staff have been in compliance with both the spirit and letter of the law.

Indeed, our actions have been and must be in conformity with all laws." You stated further, "Mr. Chairman, like you, I am most concerned that there be no misgivings as to the existence of any parallel efforts to provide directly or indirectly support for military or paramilitary activities in Nicaragua. There has not been, nor will there be, any such activities by the NSC staff."

On October 17 of last year, you and I met in your office at the White House and you again assured that there were no such activities. Despite your assurances that there existed no parallel effort to provide military aid to the Contras, frankly, sir, I

came away from that meeting believing that that was not the case. Mr. McFarlane, based on what we now know, there appears to have been, in actuality, a parallel effort at that time to illegally aid the Contras. Did President Reagan authorize that parallel effort, and when was it authorized? If he did not authorize it, who did? What other efforts did you or Col. North or other members of the NSC staff engage in to assist the Contras? How much money was raised, and what was done with the money?

MR. MCFARLANE: Mr. Barnes, I think your portrayal of events is accurate, and I do recall both the correspondence and the meeting in my office. The response I gave you then in writing and in our meeting, to the best of my knowledge, remains so. I am not sure precisely what you have in mind, but to treat what you have said, the suggestion of there having been a report or a proposal drafted -- a plan, I believe you said, for maintaining support through private channels submitted to me and briefed by me to the President -- I've never heard of, Mr. Barnes. I've asked repeatedly when those press reports appeared about whether any such plan was ever drafted, if so, when, and where is it? I was assured by Lt.-Col. North and others that no such plan was ever prepared. And that's the basis on which I answered your mail. And at the time, when we met, I offered, as you recall, I expect, that if you cared to -- and I understand your position against it, that you could examine those same records in the White House there.

But the short answer is, if there is such a plan, I don't know about, Mr. Barnes, and I don't believe there was.

MR. BARNES: Unfortunately, my time is up.

CHAIRMAN FASCELL: Mr. Zschau?

MR. ZSCHAU: Thank you, Mr. McFarlane, for appearing here and for your candid responses to our questions. I'd like to pursue briefly the process by which the idea for the original arms sale to elements within Iran was developed. Number one, where did the idea come from? Did it come from the NSC? Did it come from the State Department? Did it come from a foreign country? Where did the original come from? Two, were there other alternatives that were discussed when considering how one might develop a relationship with moderate elements, if they exist, in Iran? Number three, what was supposed to happen? You mentioned that we were going to evaluate this policy? What was it that was supposed to happen that would

have, in your eyes, made the policy successful, and number four, in retrospect, did anything good happen out of it? So those are questions I have. Where did the idea come from? What were the alternatives? What was supposed to happen and did anything good happen?

MR. MCFARLANE: Mr. Zschau, it seems to me that in my time in the State Department in 1981, it's fair to say that within the Department of State and Defense, certainly in the CIA and at the NSC, that professional analysts have acknowledged from the beginning the value, if it were feasible, to try to begin working with elements within Iran, if there really were such elements, who were interested in changing policy. I think that purpose was broadly shared for a long time.

The first institution, well, probably, State as well as NSC, was often -- often heard from communities of Iranians that exist throughout Europe and elsewhere periodically coming to us and saying that they could make such contact. I didn't see any of these as being credible nor did I hear of any from the Department of State or elsewhere until 1985 and in 1985 in July, only then did we become aware and at that point, to answer your question, it was at the NSC that we learned through a third country of, what they portrayed as "very reliable Iranian officials" who wanted to talk to the United States. It was reported to the President. It was shared by the senior Cabinet officers involved, considered, debated, a policy of going ahead to open those contacts approved. The recognition at the outset that there were risks both to our own position internationally and to those involved on the Iranian side, I understood that after a period of no more than months we would have to stop and think, "Is this proving out," and if it was, fine, and if it wasn't, stop it. And proving out had to be measured in terms of evidence, credible evidence, that Iranian policy was being influenced toward the better by such things as end to terrorism, a willingness to negotiate the end of the war and not purely self-serving motives from our interlocutors in Iran.

MR. ZSCHAU: Was the release of the hostages one of the major, if not the major milestone or performance measure?

MR. MCFARLANE: I would have to say, Mr. Zschau, that it was clear that President Reagan was terribly, terribly concerned about the welfare of the hostages and very conscious, however, of the absolute imperative that we not do business with other terrorists. But I would agree that his concern for the hostages was a very leading underpinning of this whole initiative.

MR. CROCKETT: Thank you, Mr. Chairman. Mr. McFarlane, when did you first learn of the diversion of funds from the Swiss bank accounts to the contras and did you communicate that information to the Assistant Secretary Abrams or to anyone else in the State Department?

MR. MCFARLANE: Mr. Crockett, I first learned of this alleged diversion of monies from the Iranian relationship to Central

American accounts in May of this year in connection with a mission I was asked to undertake to Iran. Either en route or returning, I was advised in a very summary fashion that the US government had applied certain Iranian funds to Central American programs and in the context of how it was portrayed to me, I took it to have been a matter of established, approved policy sanctioned by higher authority that the officer who conveyed it, who was Lieutenant Colonel North. As established policy approved by higher authority, it was in context apparently involved other leading officials of the government and I have no certain knowledge that that is true or false, but in presumption that it was, as an outsider not part of the government, I did not treat it further.

MR. CROCKETT: When you say "approved by a higher authority," what do you mean by higher authority.

MR. MCFARLANE: By higher authority,

I mean in accordance with the normal process through which important policy decisions are made. And that involves the national security advisor soliciting and getting the views of the cabinet officers concerned, and so forth.

MR. CROCKETT: Was this Swiss account in existence during your period with the government?

MR. MCFARLANE: I don't believe so. I have no knowledge of it.

MR. CROCKETT: Thank you, Mr. Chairman.

CHAIRMAN FASCELL: Mr. Dornan.

MR. DORNAN: Thank you, Mr. Chairman. Mr. McFarlane, I also want to take this opportunity to thank you for so many years of valuable service to our country. Mr. McFarlane, when you were on the job at the NSC, during that terrible month that started on June 14th of 1985, with TWA flight 847, President Reagan said, quote, about the idea of swapping our TWA passengers for Lebanese prisoners in Israel, he said, "We cannot reward their grisly deeds. We will not cave in. America will never make concessions to terrorists. To do so would only invite more terrorism. Nor will we ask nor pressure any other government to do so. Once we head down that path, there will be no end to it. No end to the suffering of innocent people, no end to the ransom all civilized nations must pay." Now I took that lead from the President, and argued many hours with the relatives of families, that I would try to help them, that I would circulate a letter, which I did, that I would take some heat and go see President Assad, who I believed to be head of a state that sponsored and participated in terrorism. And I thought we had such a clear policy that I'm still confused and hurt, although I'm trying to defend everybody in my administration. What I'd like to ask you is this -- that used to be classified, but I've since seen it in the print. The terrorist kidnappers of that TWA flight peeled off four people by the ethnicity of their surname, and put them together with the hostages that were held. Is that not a fact?

MR. MCFARLANE: I know that they were peeled off. Whether they were associated is a little ambiguous.

MR. DORNAN: And it started to break down the negotiations. Did Ali Rafsanjani, the speaker of the Iranian parliament, come to the rescue, quote, unquote, at that moment? Was that when he flew from Tehran to Damascus? And was that what began this process of people dealing with Rafsanjani?

MR. MCFARLANE: I don't believe so, Mr. Dornan. I have seen those reports. They certainly were not part of my thinking at the time. And if they are true, would not have been an adequate basis for undertaking this initiative.

MR. DORNAN: Mr. McFarlane, if you had to relive just the last eleven months, right up to the -- well the point you left -- you resigned on December 5th?

MR. MCFARLANE: Yes.

MR. DORNAN: If you had to relive the last eleven months, would you change the entire approach, just dump it like a hot potato, in January? Or is there some way some coherent overtures could have been made to Iran without what I think you've already courageously admitted was poor judgment, the weapons-ransom connection that you didn't intend, but that happened inadvertently, and in retrospect, you say there was no other way it could have been perceived by the American people. What would you do to change the last eleven months, in this imaginative, risky foreign policy approach to Iran?

MR. MCFARLANE: Well Mr. Dornan, as I say, I supported in July of '85, and I support now, the idea that the United States has an interest in trying to find reformist elements in Iran; and if we can find them, doing business with them. After having urged that, and having the President approve it, it seemed to me by the end of last year that it wasn't proving, as we had hoped it might. Believing that it had terminated, I left the Administration. But I'd have to say, looking back on it and the past eleven months, it seems to me that the idea of being open to talks with people not that are fellow travelers, but in authority, competent to act, holding positions, remains sensible. I believe that because six months experience had demonstrated to us that they weren't yet able to move at the pace we might like, then to simply say, "well, we remain open to these talks, we'll have nothing further to do in the way of arms traffic, and if you are interested, we'll carry on," would have been a very sensible thing to do. But I want to stress that at no point did I ever believe that the President of the United States was proceeding on anything other than his best judgment about what would serve US national interests, the welfare of the hostages, and our policy of counter-terrorism. And I think that's an area of some ambiguity, Mr. Chairman, and I invite your criticism, but I think that it needs to be aired by the Committee, and it's this: If there was a mistake, and I believe I probably made it, it's this: There are governments whose experience with terrorism goes back

for generations who are respected as very good at it, at counterterrorism. Now these governments, if you look carefully at their policies, analyze the threat as they find it, whether it is in Libya or Iran or in Syria or elsewhere. The way that they deal with it in each country varies. Certainly it includes this certain prospect of violent reaction or pre-emption, but in some cases, it has also included clandestine negotiation with people in states that sponsor terrorism, but with people they believe to be against it successfully.

I believe at the same time, however, that for the United States to do that, looking back, where our own position toward terrorism is much less of the same enduring status as other countries, whether Israel or others that are good at it, we are different. There is not the certain expectation on the part of people throughout the world that the United States policy against terrorism can be differentiated in these several ways. And in fact, the foundation presumption of the use of force and of never even talking to those exist in the same state as terrorists has been the foundation of our policy and so for us to proceed as others have, others who are quite good at it -- Israel -- is a mistake because our approach is not viewed the same way as Israel's is. Where Israel has a certain respect as being a state who can differentiate between terrorist threats and either negotiate or act violently as the case may be, ours is not and I believe that I erred consequently, albeit, but erred in the context of urging us to proceed in a way in which our body politic basically cannot understand -- the fact that we didn't deal with terrorists, per se, that we took steps to foreclose the use of these arms in an anti-US or a terrorist fashion is true and indeed that we achieved results is true, but it is also finally clear that our body politic cannot yet differentiate between different threats from terrorist states throughout the world.

CHAIRMAN FASCELL: Mr. Kostmayer?

MR. KOSTMAYER: Mr. McFarlane, on that flight back from Iran when you learned first of the diversion of funds to the contras, I think on May 28th of 1986, who told you that?

MR. MCFARLANE: Lieutenant Colonel North.

MR. KOSTMAYER: Lieutenant Colonel North. Did you ask Lieutenant Colonel North whether he was acting on the authority of the President of the United States or a person of higher rank than himself?

MR. MCFARLANE: No, it was conveyed to me as an element of about five or six that I had no participation in but could absorb as part of a policy. The other elements, as you may know, were that a finding had occurred in January, that a --

MR. KOSTMAYER: I understand that, sir, with all due respect. Our time is so limited. Did you say, "Ollie, you're breaking the law?" You know the law, Mr. McFarlane. You know what the Boland Amendment said. It prohibited direct or indirect US assistance

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to the contras. A member of the National Security Council had just told you that funds were being diverted to the contras from the sale of arms to Iran. Did you say, "My God, man, you're breaking the law?"

MR. MCFARLANE: Sir, I was in middle of saying that when you are told in a very brief space of time that a finding has been approved which allows the transfer of arms, that some have been transferred, further that no hostages have come out and yet an arrangement is now in place for all of them to come and the government is applying some of these monies to Central America. The several elements here were all elements with which I had no knowledge prior to the time, but were presented as elements within an integral whole which, in my own knowledge, that the President under the National Security Act, is often authorized to undertake certain sensitive intelligence operations, did not seem to me to be at the time a matter where the authority did not exist.

MR. KOSTMAYER: Well, you told Mr. McCain, and correct me if I'm wrong, and I do quote, "Lieutenant Colonel North would not have taken these initiatives without higher authority." You said the same thing, I believe, and correct me if I'm wrong, about Admiral Poindexter, that neither of them would have acted without higher authority.

Then when Mr. Crockett questioned you, you said that by "higher authority --" he said, "By whose authority were these actions taken, you said, "By the head of the National Security Council, Mr. Poindexter, but he wouldn't such actions on his own." Well, who in your judgment and with your experience in government could have directed Admiral Poindexter to allow Lieutenant Colonel North to take such actions?

MR. MCFARLANE: As I have said before, I firmly believe that the President of the United States did not know of and did not approve such actions.

MR. KOSTMAYER: Well, somebody between Admiral Poindexter and North --

MR. MCFARLANE: I also said and I believe that I find it hard to imagine that Admiral Poindexter did as well. Those are not inconsistent.

MR. KOSTMAYER: Well, let's try to focus in here. In other words, there was somebody between Admiral Poindexter and the President of the United States who not only knew about the illegal diversion of funds to the contras, but authorized it. Is that your view, sir?

MR. MCFARLANE: No, it isn't.

MR. KOSTMAYER: Well, can you tell me what your view is?

MR. MCFARLANE: Yes.

MR. KOSTMAYER: Please proceed.

MR. MCFARLANE: The response that I gave to Congressman McCain was purely speculation, but it basically turned on the climate which is established from the time that a goal is approved within an administration and that is, in this case, when the President's strong commitment to the support of freedom fighters was established and that being emphatically clear to his Cabinet officers as well as to his own staff, that over time, after that original commitment. The interpolation of that and the presumption of authority which may not exist to take certain actions in support of that goal may, and I don't know, I wasn't there, explain what has happened.

But again, Mr. Congressman, I wasn't there and it's out of place for me to speculate.

MR. KOSTMAYER: In other words, you think that Lieutenant Colonel -- in other words, it just kind of happened, by inference, that since the President's goal was clear support of the contras in Nicaragua, it just kind of happened that a group of, I think, yes-men, in the basement of the White House, broke the law of this country by inference and not clearly aware specifically that a specific law passed by the Congress of the United States was being broken on a daily basis -- and you were informed of it?

After your service was separated from the government, I recognize you were not a government employee.

MR. MCFARLANE: Well, that isn't the way that it was portrayed to me. I'm responding to what I know of the system and can only say that if such matters took place, and I don't know that they did, that this is a context in which it might have happened.

MR. KOSTMAYER: Well, my time has expired, Mr. McFarlane, but there's nothing wrong with the system. It's the people who were running the system at all.

CHAIRMAN FASCELL: Mr. Burton?

MR. BURTON: Thank you, Mr. Chairman. This -- (off mike) -- that you're now engaging in may be great media, but it certainly isn't getting us anywhere. Mr. McFarlane has already stated very clearly that he had nothing to do nor any knowledge of the alleged diversion of funds, and although my colleagues continue to dwell on this, the way to find out about that is when we get Mr. North and Mr. Poindexter and others who were directly involved in here. My question, Mr. McFarlane, is, I am a little puzzled about how these weapons got to the military in Iran without the leaders knowing about it. Mr. Rafsanjani, who's the deputy of the Ayatollah Khomeini and also the speaker of the Iranian parliament, was aware of, according to the French press, that one plane load of weapons did get through. Now he's the assistant to the Ayatollah, and I just wonder if he knew about, then the head of the government knew about it, as well. And you've indicated earlier that the people that you dealt with, their

bona fides had been checked, and you were sure that they wanted to bring about change. Now Mr. Rafsanjani is very close to the Ayatollah. He knew about it. Was he involved?

MR. MCFARLANE: Mr. Congressman, I think that is a central question to be answered, and it is best answered, I think, in a closed session. But I don't want to dissemble. I think you can be very confident that very high level officials within the Iranian government were both aware of and supportive of this entire initiative. We certainly would not have undertaken it with people of lesser standing.

MR. BURTON: Well, he -- well, I suppose maybe we ought to talk about this in closed session, at some point. But it mystifies me how the second-in-command of the government could know about it, and not the Ayatollah himself. And if we were dealing with him, he was responsible for the terrorism, and I would like to have some explanation about it.

The other question I would like -- there are 200-plus Soviet agents in Iran. And could give you your analysis of the situation, should the Soviets be successful in taking over in Iran and subverting that government at some point in the future and getting control of Iran, and what that would mean to the United States.

MR. MCFARLANE: Well, to imagine a prevailing Soviet influence in Iran is to imagine a catastrophe for the western world, basically. The ability of the Soviet Union, if an influence in Iran, not only to project power, to outflank Pakistan, India, but as well in immediate terms to dominate petroleum exports that are key to fueling the global economy is obvious. In addition, the direct ability to influence and intimidate, ultimately to dominate the neighboring countries in the area, would also occur. But the immediate ability to constrict and bring to its knees the global economy, as well as to project power, is, I think, self-evident.

The United States could not tolerate that. The policy of identifying (sic) the security of the Gulf for American interests goes back to President Carter, and it was stated then and remains now a vital U.S. strategic interest.

MR. BURTON: So we had national security interests involved there?

MR. MCFARLANE: No question about it.

CHAIRMAN FASCELL: Mr. Torricelli.

MR. TORRICELLI: Thank you, Mr. Chairman. Mr. McFarlane, I wondered if you could recall for us if you have any knowledge of any commissions or fees having been paid during the transactions and questions to any persons involved in their arms sales?

MR. MCFARLANE: No.

MR. TORRICELLI: As far as you're concerned, anyone who was

involved in these transactions did so on a helpful basis and received no compensation?

MR. MCFARLANE: I know of none, no.

MR. TORRICELLI: Are you aware of any time when Mr. Fielding, the counsel to the President, or anyone on his legal staff, wrote any memorandum reviewing legal aspects of these arms transfer, or the implications on informing or not informing the Congress? Are there any such memoranda, to your knowledge?

MR. MCFARLANE: I know of none. I can only say I have seen, I suppose, the same press reports which indicate the involvement of the Attorney General. But I don't know that.

MR. TORRICELLI: During your service in the White House, if you had wanted to establish an operation to transfer these funds in such a covert activity in the White House, is it your understanding, based on the way the President's staff is operating, that you would have needed to inform or seek the approval of Don Regan? Or would you have felt the freedom of operation to set up such procedures without his authority or knowledge?

MR. MCFARLANE: No ---

MR. TORRICELLI: The question is of a hypothetical nature.

MR. MCFARLANE: No policy initiative or other action requiring the decision of the President would have been taken without involving the members of the National Security Council who, by law, are the Secretaries of State and Defense, and the Vice President, and in this administration.

MR. TORRICELLI: But since there seems to have been a decision for this to operate within the White House -- I'm speaking now of the Contras, and again, we're speaking hypothetically because I know you have no knowledge of that transfer. If you, as the President's national security advisor, had decided that there was going to be

such an operation that was going to be conducted within the White House, do you feel that, based on the organizational structure of the President's staff, you could do so, if you had still been, without the knowledge or authority of the Chief of Staff? Or is that kind of latitude given to members of the staff?

MR. MCFARLANE: No, I wouldn't have. But I would state that the reason why I wouldn't is because the decision authority of the President and of the National Security Council happened also to include Mr. Regan, but it would have been a matter of requiring the full NSC to deliberate on something of this importance.

Q Mr. McFarlane, when all is said and done at the end of the day, we are left with the conclusion that there is some \$30 million of the taxpayers money that appears to be misappropriated. I am aware that you have no direct knowledge of the Contra

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transfers, but you may have knowledge of an element of what could be a crime against the Treasury, and that is on what basis these arms were shifted. My precise question would be: During arms sales and transfers, were titles to those arms shifted to the brokers, the merchants, or third nations? Or, is it your understanding that titles to the arms remained with the United States until received and paid for by the Iranian government?

MR. MCFARLANE: Congressman, I have no knowledge of any of these details of any arms transfers. I was not party to them.

Q Well, even in those arms that went through third nations or other parties, is it your understanding in the time that you were involved and everything you have learned since, that the arms remained in the title, ownership of the United States government?

MR. MCFARLANE: Well, again, bear in mind that I believe, if what I've read is accurate, that the monies that are currently being reported in the press had to do with payment for US arms. Now, at no time during my service of the government were any US arms ever transferred. Consequently, I simply don't know about how payment this year, this springtime, has been made. And it would be a little out of place for me to guess. I don't know. I wasn't involved.

CHAIRMAN FASCELL: Gentleman's time has expired. Mr. Smith.

Q Which one?

CHAIRMAN FASCELL: Larry Smith.

MR. LARRY SMITH: Thank you, Mr. Chairman. Mr. McFarlane, you know, your answers are very unique. In response to Mr. Kostmayer you seemd to take the position that when the car was stopped for speeding everyone in it was in the backseat and there was no driver at all. There's nobody between the President and the National Security Director (sic) that would have to make a decision, or you're not willing to speculate on it, yet you were the National Security Director (sic) yourself--the National Security Adviser. And it seems to me to be part of this whole problem of trying to fit a charade that weighs ten pounds into an eight pound suitcase and carry it all over Washington. The reality is we were never dealing with any moderate elements. What moderate elements could have possibly taken delivery of arms, given it over to the army in Iran, and not have been found out? I'm very interested for you to tell us if you're willing to give us the names of the moderates we were dealing with in executive session?

MR. MCFARLANE: Well, if we are going to devolve(?) to an executive session I would be pleased to.

MR. LARRY SMITH: And let me ask you this: When you had discussions with those moderate elements, did you raise the issue of their bringing forward hostages out of whose ever hands in which they were being held to prove their good faith?

MR. MCFARLANE: Yes.

MR. LARRY SMITH: What then did you ask them to do other than that? Did you think that by opening the channels and asking them to get out the hostages we were then dealing with moderate elements which would justify a policy exception which would leave in shambles every single policy which we had in place--a policy of not tilting in the war, a policy against not dealing with terrorists, a policy of not dealing with a terrorist state, a policy of not dealing with a drug producing country, a policy of not selling our allies out, not only our European allies but our Middle Eastern allies? Did you believe that that one situation of dealing with them and having them produce the hostages would have justified all of those other policy exceptions which would probably turn our total policy and credibility on its ear? Did you have that thought in mind?

MR. MCFARLANE: I didn't have any of those thoughts in mind. As I have said several times today, Mr. Congressman, I believe that it is not in the United States' interest to have the eternal enmity of the government of Iran. I believe that it is plausible to believe that perhaps some in Iran, seeing the state of decline in their own country, might also agree. We can't be confident or certain, but it is in our interest--indeed it is a responsibility to try to find people like that, and we tried. And after having observed their performance for a while, it is important that we judge--is it working or isn't it--and we did. And when we found that it wasn't, I recommended that it come off. I believe that was a prudent course to follow. I would do it again.

MR. LARRY SMITH: When did you recommend that, Mr. McFarlane?

MR. MCFARLANE: In the course of the time that I served between July of last year and December of last year.

MR. LARRY SMITH: May I ask you a direct question? And I would really like an answer. Isn't it true that you actually resigned your NSC directorship in order to perpetuate this policy as a private citizen?

MR. MCFARLANE: That is absolutely false, and an outrageous statement.

MR. LARRY SMITH: Why is it outrageous? It actually--

MR. MCFARLANE: Because that isn't true.

MR. LARRY SMITH: --coincides--I'm asking you if it's true. I didn't say it was.

MR. MCFARLANE: It isn't true.

MR. LARRY SMITH: It is not true?

MR. MCFARLANE: It is not true.

MR. LARRY SMITH: And the fact that you were involved in this

policy directly, right in the middle of December when you resigned, you want us to believe that this policy and your resignation were not tied in at all? Or your ability to go further inside perpetuating this policy were not tied in at all, is that correct?

MR. MCFARLANE: That's correct, Mr. Congressman.

(sound of gavel)

MR. LARRY SMITH: Thank you, Mr. Chairman.

MR. : I have a point of order, Mr. Chairman.

CHAIRMAN FASCELL: You can make it, but I've been just as lenient with that side.

MR. : Not so that we have noticed, Mr. Chairman, and --

CHAIRMAN FASCELL: Well I have noticed it --

MR. : -- and we'd like to have it observed on both sides of the aisle, rather than just one side.

CHAIRMAN FASCELL: I have noticed it, and I have kept very close tabs on this. Mr. Mack.

MR. MACK: Thank you, Mr. Chairman. Mr. McFarlane, I'd like to follow up a little bit more on the question about who may have authorized the transfer of funds to the contras. In your role, if someone had brought you the suggestion that there were going to be excess funds that could be transferred to the contras, it's my understanding that the National Security Council, the advisor, works directly with the President. Why is it not logical to assume that you or some person in that position would have gone to the President with this? I mean, it's a fairly major step on the part of the administration. Why isn't it reasonable to assume that would have occurred?

MR. MCFARLANE: Mr. Congressman, the position, I think, of any national security advisor, and particularly those in this administration, has to be seen as one responsible for assuring that steps are taken, not only to report ideas, but to assure that the system works in ways that, over time, if the idea is sensible, the policy will succeed, and that requires that you always involve the Secretary of State and Defense and others. And as a matter of self-interest, ultimately any good idea is going to have to be carried out by the Department of State. And so the way that you go into whatever you may choose to do, whether it's on arms control or counter-terrorist policy or something else, you engage people at the beginning, because ultimately, they're going to have to be

responsible for carrying it out. To answer your question, for that reason, the national security advisor wouldn't go directly to the President, in my judgment, on matters of policy change or initiative without having the Secretary of State and others in the cabinet

involved.

MR. MACK: At some point, I would assume that during a discussion of the National Security Council, that question would have been raised, wouldn't it?

MR. MCFARLANE: Well if you're talking now about the original Iranian dialogue, yes, of course --

MR. MACK: I'm talking about the transfer of funds, the decision to work those funds through accounts to the contras. That decision had -- you have already said that decision would have to have been approved by higher ups, for Lt. Col. North to act. And I'm trying to pursue at what point, or where did that approval come from. And I was under the impression that anytime that the National Security Council met, that the President was at those meetings.

MR. MCFARLANE: Well, I believe what I said, Mr. Congressman, is that I find it hard to imagine that it was undertaken without higher authority. But it is really, I think, out of place for me to try to figure out, not having been involved, just how it occurred, because I don't know how it occurred. I just can tell you generally how the system functioned, and if it were applied, as it had been in the past, here is the way things would have gone. But I don't know that.

MR. MACK: Would that type of idea or question, would that have come to you, in your role?

MR. MCFARLANE: Yes, it would.

MR. MACK: And where would you have gone for approval?

MR. MCFARLANE: Well, Mr. Congressman, I would have exercised the system which required the participation of the cabinet officers, as well as those higher up. Now it might not even have gotten, if that were done, to the President. The cabinet officers might have said no, absolutely not, we're not going to do this, would never have taken it to the President. If they agreed with it, we'd have taken it on to the President. But again, this is pure speculation on my part. I don't know.

MR. MACK: Thank you.

CHAIRMAN FASCELL: Mr. Reid.

MR. REID: Thank you, Mr. Chairman. Mr. McFarlane, the Secretary of State, in his testimony before the committee today, stated that his information on the sale of arms to Iran was "sporadic and fragmentary," in his words. I have read accounts in the press where you said that you kept him informed as to the sale of arms to Iran. Would you indicate to the committee how we have this divergence of memory, from the Secretary of State and yourself?

MR. MCFARLANE: Well I think I may have contributed to it, and

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I'm sorry. What I said was that yes, I had spoken often or frequently with the Secretary. And I should have pointed out that that applied to the time when I served in government. It seems to me the Secretary this morning, if I recall his words, were that in 1985, he had quite a lot more knowledge, and he said that -- his word was "considerable" amount of discussion with me, I believe, about it, and I don't think that today, there is inconsistency.

MR. REID: So if I understand

what you're saying, you feel the Secretary did have ample knowledge of the arms deal with Iran? He knew what was going on, in your opinion?

MR. MCFARLANE: I believe that all the matters that took place in 1985, that the Secretary of State was involved in the policy deliberations that surrounded them, yes.

MR. REID: Okay. Changing directions for just a minute, in having watched the President's first statement regarding these events, he stated a number of things that appear in hindsight to be incredible. For example, one is that the missiles could be fired from the shoulder and that the missiles could have been hauled in one airplane. We're talking, as I understand it, about some 2400 missiles. I've also been advised that missiles weigh about 5000 pounds each, with the cases that they're transported in. How would the President have knowledge that is so inadequate about something so important as this? Do you know?

MR. MCFARLANE: Mr. Congressman, I have been told similar things -- and I'm relying now on secondhand information, so I ---

MR. REID: You're being told that they could be hauled in one airplane?

MR. MCFARLANE: Yes. And I don't know. It may turn out that the quantities that are being discussed weren't the transfer directly of U.S. arms. I just don't know that. And so I couldn't give you a description of their size and so forth. I'm familiar with the hardware.

MR. REID: But, Colonel (sic?), you know the size of the missiles, generally, don't you?

MR. MCFARLANE: Yes.

MR. REID: And you know that 2400 missils couldn't be hauled in any airplane that we have, do you not know that?

MR. MCFARLANE: Of these kinds, that's true.

MR. REID: Okay. So my question -- and the concern that we all have -- is, I am concerned -- we're concerned -- about the inadequate information the President obviously had in this regard. And my concern is that maybe he didn't know. But shouldn't he have known?

MR. MCFARLANE: Mr. Congressman, it is really out of place for me to speculate on what has happened 11 months after I have left the government.

MR. REID: But, you know, the transfer of the arms, Colonel, happened when you were there -- one of them. Is that not right?

MR. MCFARLANE: Well, no U.S. arms ever left any depot in the United States to go anywhere when I was in the government.

MR. REID: That all took place afterwards, then?

CHAIRMAN FASCELL: Mr. Smith of New Jersey.

MR. SMITH: Thank you, Mr. Chairman. And Mr. McFarlane, The New York Times reported on December 5th that you told the Senate Intelligence Committee that you actively counseled against sending arms to Iran, presumably because the focus of the discussion was narrowing down to arms for hostages. Is that true? And can you tell the committee was anything other than arms -- like money or food or medicines -- ever considered as confidence-builders on the broader perspective -- talking about ending the Iranian-Iraqi war, or abating state-sponsored terrorism and the like, and to check Soviet expansionism?

MR. MCFARLANE: Mr. Congressman, an important part, I think, of this whole thing has not been treated yet, and that is, what was our agenda and did we talk about it with the Iranian officials, and what did they have to say about it. And, in fact, quite an extensive political agenda was discussed with Iran, to include our very emphatic statements of disagreement with their policies of terrorism, of continuing the war with Iraq, of their revolution and the sponsorship of fundamentalist violence throughout the Middle East. We also discussed that there might be over time some interest where we could find agreement, for example, about Afghanistan; that we disagreed basically with their efforts within Lebanon to establish a radical regime there. On each of these points, there was acknowledgment and rebuttal, basically and reasonably clear and not always agreeable, but defensible terms -- defensible in the sense of being against and declaring themselves against various kinds of violence and the fundamentalism; accepting, if they could find a means to do it honorably, an end to the Iran-Iraq war; acknowledging that they recognize the Soviet threat in Afghanistan and elsewhere, and believe that there might over time be a basis for us exchanging views there and perhaps cooperating and so forth. And this went on for a considerable period with people who -- it's difficult to imagine, but you have to say were plausible in their assertions, by dint both of their background and the risks that they had taken to be in the same room with you.

To answer your question on whether there were foodstuffs or any other items that were considered, no, although I believe a third country considered at one point whether or not something else, for example, drilling equipment or other items might be of greater value. But, no.

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MR. SMITH: You were considering yourself that it was narrowing down to the idea of arms for hostages in December?

MR. MCFARLANE: Yes, I thought so.

MR. SMITH: If you could tell us -- as a matter of fact, to follow up on what Mr. Burton was speaking to earlier -- when do you think the Ayatollah became aware of the arms transaction? You know, on November 20th, he denounced seven members of the parliament for seeking an investigation into the U.S.-Iranian arms deal. On November 26th, the Iranian foreign minister defended the arms sale. And it seems that very high levels of government -- even the Ayatollah -- are in synch about the advisability of the sale. Who is at risk? I know that we have to wait until closed session to go into some of the names. But I'm wondering, when did the Ayatollah discover that this was going on? Or was he a party to it all along?

MR. MCFARLANE: Mr. Congressman, I have no way of knowing how the internal mechanics of the Iranian government work, nor whe the Ayatollah may have known of these matters. The fact of people being at risk today, I think, is expressed in the headlines that are coming today out of Iran, where it's clear that factions are in disagreement, and some -- call it those seeking change -- are moving against -- by that I mean, incarcerating, locking up the more radical faction. And that leads to a counter-ploy, which apparently was related to the original disclosure of this initiative that occurred through a Beirut newspaper, apparently ceded by the more radical faction from within Iran.

But my point is not who-shot-John so much as to say that there is disagreement; and that those -- that there are those who seek change, and those more radical who do not; and that, if anything, it vindicates the course we've taken to try to strengthen those who are seeking change.

MR. SMITH: You said something earlier -- that Iran could be next. And I think, especially for this committee, it is important that we pay closer attention to the bigger picture. We are all concerned, obviously, as to whether or not there was a violation of the law, and it's a very legitimate concern. And there are committees that will investigate, I'm sure, that adequately. The independent counsel certainly will render his decision as to whether or not a law was broken. But in talking about the threat, both internally and of further consolidation of radical Shi'ite-ism (sic) and that moving throughout the rest of the Middle East, and the threat to the region peace-wise from that, as well as the threat from the Communist insurgency, perhaps indigenous and perhaps an invitation that could be extended to the Soviets, a la -- i.e., I should say, Afghanistan, could you spend some time discussing those two -- the spread of radical Shi'ite-ism and the Communist threat, as it exists, because that apparently was your mission to explore those avenues with the Iranian moderates?

MR. MCFARLANE: We spent considerable time in Teheran talking

about those very issues, and hours, in fact, laying out why it was that we opposed their efforts to spread fundamentalist

violence throughout the Middle East. We also insisted on why we had interest and intended to stay in the Middle East, and we thought those were compatible with Iranian interests. In answering our criticisms about fundamentalism and of violence, they declared, and these are people who, some were Western educated, some were not, some were--in each case, however, thoughtful people who gave answers that were, if disagreeable, defensible, specifically in this context asserted that they recognized the effect had been harmful to Iran, of the violent crusades that were going on from Lebanon elsewhere. They disclaimed support for them. They said they would try, but couldn't be totally effective in influencing them. They said that they did not want to undermine the stability of other states in the Gulf or the peninsula, that they had acknowledged their best course was to live and let live with these governments, and that even with Iraq they were prepared to accept and honorable resolution of the problem if they could find a way to do it. They did say that we had mischaracterized their revolution and so forth, and yet were--did acknowledge that we had legitimate interests in the area, and in fact was what inspired them in the first place to seek us out.

We talked for a long time about Afghanistan and their own view of Soviet intentions there and vulnerabilities. And we didn't go beyond that. We talked about Lebanon and the probable course of events if violent factions were allowed to continue with their support. Basically they agreed. But, these discussions took place in the course of three days time, and left one with the impression that here were people who indeed wanted change, who had not yet been able to put together the elements that would make them strong enough to really alter policy, and that that might take months, even years, but that it was reasonable to stay in touch.

They were under no illusions, however, that given their inability to act, the United States could no longer find it worthwhile to deal with them, because if they couldn't even do something like securing the release of our hostages it did two things. First of all, it called into question their good faith; secondly, their influence, where if they couldn't do something like that there was no real basis for us to deal with them. They couldn't alter larger policies either.

CHAIRMAN FASCELL: The gentleman's time has expired long since. Mr. Feighan.

MR. FEIGHAN: Thank you, Mr. Chairman. Mr. McFarlane, has the National Security Council or any of its representatives, or to your knowledge any agency or individual of the United States government negotiated or discussed arrangements with any country other than Israel for the transfer of American arms to Iran?

MR. MCFARLANE: Not to my knowledge.

MR. FEIGHAN: Recent press reports, of course--

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MR. MCFARLANE: Mr. Congressman, I should add, and I'm sorry, that in the same context we have discussed forclosing or not providing arms, but never seeking to get arms delivered, no.

MR. FEIGHAN: Well, recent press reports, of course, deal with the involvement of third country in the shipment of arms to Iran, but perhaps you will recall press reports that date back several years ago suggesting that there were other countries, or at least one other country involved. You may recall the reports of 1983 that there was an investigation undertaken by our Customs Department that was investigating the possibility that weapons were reaching Iran through South Korea. Hughes Aircraft invoices, Mr. Chairman, copies of which I would like to insert at this point for the record--invoices from Hughes Aircraft indicate that in the summer of 1982, Korean Airlines, which incidentally is a registered arms exporter with the State Department, purchased 25 TOW missiles, similar to the same TOW missiles that were recently sent to Iran through Israeli representatives. Now, these invoices further indicate that the shipment was not made to Korean Airlines, but was made to some undisclosed location. To your knowledge, were those missiles shipped to Iran or any representative on behalf of the Iranian government?

MR. MCFARLANE: I haven't heard of the report, and I have no basis and knowledge for saying that it's true or false. I never heard of it.

MR. FEIGHAN: Do you have any information that would lead us to conclude what would have been the final destination of those arms?

MR. MCFARLANE: No, I don't.

MR. FEIGHAN: You had testified earlier, Mr. McFarlane, that you were not aware of any memo that was prepared for either the President or the National Security Council dealing with the legal considerations of arms shipments to Iran, arms sales. Can you tell us of any discussion that you recall, either at the National Security Council, or for the benefit of the President, that raised the potential, or as some might view it, the probable legal violations of engaging in an arms sale to Iran, whether it be violations of prohibitions on the sale of weapons to countries that engage in state-sponsored terrorism, or violations of the notification requirements to Congress?

MR. MCFARLANE: When it was asked earlier, as I said, the original presentation to the President and to appropriate cabinet officers of the issue of whether or not the United States should seek the exchanges at all of, on this political agenda, and separately whether we should acknowledge or acquiesce any transfers at all, the pros and cons in each of the areas you mention, of law, of policy, so forth, precedence, all were discussed. And, the assertions of problems in law, problems in policy and so forth were raised, discussed, debated, and so forth. Maybe I'm missing your point, but yes, all of that was part of the process through which

ultimately the President based his decision.

CHAIRMAN FASCELL: Mr. Weiss.

MR. WEISS: Thank you, Mr. Chairman. Mr. McFarlane, I want to refer very briefly to two matters which have been referred to earlier in today's hearings as sort of a follow-up. One, there is reference to the fact that the Miami Herald has been carrying the story in the last day or two about the fact that there had been knowledge prior to the condoning of the trans-shipment of American arms by Israel to Iran prior to that decision to trans-ship that. And I want to know whether in fact that's accurate, and whether there was any discussion about the appropriateness of trans-shipment with that kind of knowledge that Iran had in fact paid for the blowing up of the Marine barracks in Beirut. And secondly, the Secretary of State referred to a meeting earlier this year which you and Colonel North, and former General Secord, had participated with the ambassador, Ambassador Kelly in Beirut, regarding some hostage discussions--release of hostages. And my question is whether in fact you participated in those, and whether there was representation that the President of the United States or somebody at the White House did not want the Ambassador to report those discussions to the Secretary of State?

MR. MCFARLANE: The first question, Mr. Weiss, concerning whether I know of any transfers of arms to Iran that occurred before July of last year, no. I've seen the reports, as you say, and those that suggest--

MR. WEISS: Not the transfer prior to that, knowledge that the Iranians had in fact were responsible for blowing up the Marine barracks prior to the transfer in July and August of 1985.

MR. MCFARLANE: At the time of the attack on the barracks in October of '83, the reports that elements within Lebanon that had links to Iran might well have been responsible, probably were, yes was known, distinguished between that and an Iranian unit from Iran having done it which you didn't imply. But the suspicion that Iran had links to Hezbollah was known.

MR. WEISS: Knowledge that it was paid for by the Iranians?

MR. MCFARLANE: Well, that I didn't know. I don't know if that's the case. But, with regard to reports of a meeting, that--it is--I take it suggest that I had with Ambassador Kelly in November, I --

MR. WEISS: No, not in November, some time this year. Apparently, in the Spring of this year, you and Colonel North and General Secord had spoken to Ambassador Kelly about some hostage discussions?

MR. MCFARLANE: Well, there must have been some kind of blurring of things because General Secord, Colonel North and I have never had a conversation with Ambassador Kelly at all. I have known Ambassador Kelly for many, many years, and in probably July of this

year, at his request, he came to me and asked before going out to take up his post in Beirut just to come by and talk. And about 90 percent of it was addressed to my own views about the

several factions within Lebanon and the kind of political climate he would face there between the Christians and the Shi'a, Druze and so forth and what I saw as the possibilities for bringing these communities together and so forth. I did mention to him that in the course of the past year -- or the six months -- before I left government, that there had, on occasion, been a release of hostages and that at the time, because the Secretary of State was involved throughout and knowledgeable about the overall course of policy, that, if ever that happened again, and I couldn't say that it ever would, but that he would be notified to be ready to accept an American -- and basically his task was to get that American on from Beirut out to someplace else. But that my point in talking to him and this absorbed, perhaps, five or 10 minutes of the whole conversation was to say that this matter is one that has been developed with the Secretary of State and the President and other Cabinet officers.

MR. : Thank you very much. Thank you, Mr. Chairman.

CHAIRMAN FASCELL: Mr. McCain?

MR. MCCAIN: (Off mike.)

CHAIRMAN FASCELL: Mr. Udall?

MR. UDALL: Mr. McFarlane, I start out as one of those who have found it incredible to believe that one field grade officer with maybe a couple of assistants could make these large shipments, deal with other governments, arrange for a markup on \$10 million of missiles so that they become \$20 million or \$30 million worth of missiles, all of this being handled in an area maybe 100 yards from where the President sleeps, and no one in the authority knows about it or attempts to stop it. I may have overstated a little bit, but I have been unable to credit that kind of a story.

I think we're going to get to the bottom of all of this. I appreciate your coming down to help and I hope we learn some lessons in the future, and one I'd like to take up quickly is, how many Ollie Norths do we have down there at the National Security Council now? What's the total number of employees and how many people have the same kind of responsibility that Lieutenant Colonel North has? Could you deal with that a moment?

MR. MCFARLANE: Mr. Udall, the staff at December of last year had about 44 professionals on it that are divided regionally and three or four people for Latin America and Africa and Asia and so forth and then they have a functional office for economics, for defense, another half dozen people or more. Colonel North is in the political-military section which I think -- believe -- has four or five officers in it, and the intent of your question is --

MR. UDALL: Let me approach from another angle if I can. The

President has given the Tower, Muskie, Scowcroft group mission to look into the organization and structure and functioning of the National Security Council and see how we can improve on it. Have

they asked for your help or are there some insights you could give us today about what's wrong, if anything, with the organization and structure of it?

MR. MCFARLANE: Congressman, I think that that is really one of the two questions which ought to lead to some illumination and progress in the coming weeks and months and I'm glad you asked it. I'm afraid it will take several hours to give you a good answer and I would love to do that. In the space of time that is here I think that --

MR. UDALL: No, I don't want to go into this. We don't have the time to do it in any detail, but it's interesting to me to see that this National Security Council function of our government has expanded. A few years ago, in the middle Nixon years, I, for another committee, undertook an investigation to chart the growth of the National Security Council. This was when Secretary Kissinger was, I think never aspired to be Secretary of State and we loading up the White House and we found he had doubled or troubled (sic -- may mean tripled) or quadrupled the number of people working there in that function within a very short time. And I think this may be a typical case of bureaucratic growth where it keeps expanding.

In the Kennedy years, we had McGeorge Bundy and two specialists with a couple of secretaries. Then it got bigger in the Johnson years and bigger still in the Nixon years. It seemed like every President came to office vowing to cut down this bureaucracy in the National Security Council around in the White House and every one of them left with a legacy of an even larger bureaucracy than they had started with.

I would hope that you would give us or the Tower Commission the benefit of your thinking and see if we have the best possible structural arrangement.

MR. MCFARLANE: Well, I hope I'll have an opportunity to do that and I would like to come back and do it with the committee as well. In a nutshell, I believe that in the late 20th century the National Security Council has a terribly important role to play but it is basically a coordinative role. It is not an operational role and as one of your colleagues said this afternoon, that in general terms, it isn't the system, it is the people involved who can, over time, make mistakes, but the system is a sound system that has proven itself historically.

MR. UDALL: Thank you, Mr. Chairman.

CHAIRMAN FASCELL: We are prepared, unless there's further questions, to entertain a motion to go into closed session. Mr. Mica.

MR. MICA: Just briefly, Mr. Chairman. Mr. McFarlane, you

referred consistently today to those of higher authority. When you were chairman of the National Security Council, when you made a very important decision, or were about to make a very important decision, who did you report to? Who is the higher authority?

MR. MCFARLANE: The higher authority is The Council, which in law consists of the president, the vice president, the secretaries of state and defense, two advisors, the chairman of the Joint Chiefs, the director of Central Intelligence, and in this administration, three other officers, the Chief of Staff, the Attorney General, the Secretary of the Treasury.

MR. MICA: So that each of these decisions that we're talking about ostensibly would have been in normal times reported to the President, the Vice President, the Secretary of State, and so on, is that correct?

MR. MCFARLANE: Mr. Mica, that is how this system is structured to work. I don't know whether those steps were followed or not.

MR. MICA: When you were serving there, did you report, or did you regularly withhold or regularly make reports to the President, I should say, on these types of decisions, or anything of this magnitude?

MR. MCFARLANE: Well, I didn't withhold from the President at all. If there was something that certainly were a matter of law, it would go to the President for determination based upon the advice of the Attorney General as to whether it was law or not. And, but I certainly wouldn't make that judgment.

MR. MICA: You would have normally made all these types of, all this type of information available to the President, the Vice President, and the list that you have just suscribed?

MR. MCFARLANE: No, I would--Mr. Mica, I don't want to imply that out of context. I believe that in this circumstance, matters were or were not elevated to the President. I don't know that.

MR. MICA: I think that's, obviously that's what everybody is concerned about here--who knew what and when. And you have indicated that it's always higher authority. And the general feeling and the general perception we have is the higher authority is just a few people, including those that you mentioned, the President, the Vice President and a few others. The Secretary of State said today he was not told. Colonel North sat on the coordinating group on terrorism

and apparently never told anybody on that group of what was going on. So the higher authority, the circle of that higher authority gets narrower and narrower.

Let me ask you a quick follow-up on that--you never hit the button, Mr. Chairman--were you aware, or are you aware of any other agreements or negotiations or deals that have taken place either before you left, or in this period since you left, regarding specifically commodities, hostages, for hostages, or any kind of

swaps with Iran and so on? You know, last week we had Mr. Whitehead say that we would get answers from those under oath here. I asked on Tuesday was there any new information on Nicaragua, Honduras? He said absolutely not; we've been told the truth. And the next day we were told a whole different piece of information. Is there any other information out there with regard to these types of agreements that we have not been told?

MR. MCFARLANE: Again, involving changes with Iran?

MR. MICA: Iran? Nicaragua? Syria? Libya? Is the record straight on the other major issues?

MR. MCFARLANE: I know of nothing that hasn't already gotten in the public record. If you're talking about hostages or arms or both, or what, Mr. Mica?

MR. MICA: Well, specifically, I've had at least some indications that there were other types of deals talked about, if not consummated, with regard to commodities, but you're saying that this is not correct?

MR. MCFARLANE: I don't know of any such.

CHAIRMAN FASCELL: The gentleman's time has expired. Let me straighten out a small dilemma here before it gets to far. I was under the impression, mistakenly, that we just had a few more extra questions. Now my members want to go back to regular order, so I'm going to do that. But let me interrupt the proceedings here just for a moment to say that at some time the Chair would like to be authorized to go into closed session with this witness so we can get on about our business. And I would like a motion to that affect.

(INAUDIBLE)

CHAIRMAN FASCELL: Thank you. And under those rules, a roll call is automatic.

(A ROLL CALL WAS TAKEN)

CHAIRMAN FASCELL: On this vote there were 27 "ayes" and no "nays." Under the rules, the committee can vote to close another meeting. I would entertain a motion that the meeting on Wednesday, December 10, 1986, with the witness the Honorable William Casey, be executive session. Under the rule the roll call is automatic.

(A ROLL CALL WAS TAKEN)

CHAIRMAN FASCELL: On this vote there were 25 "ayes" and 2 "nays." So the meeting will be closed. So let me explain --

MR. ROTH: (Off-mike) start it in closed session right away, or are we --

CHAIRMAN FASCELL: Yes. Yes.

MR. ROTH: Well, the vote's been taken, Mr. Chairman, but I think more than anybody else in the government, Mr. Casey, at least we could be given with the opportunity to ask him a few questions in open session. I think the American people have the right to know when we have the CIA director, to know what's going on --

CHAIRMAN FASCELL: Well, the problem--

MR. ROTH: If some of these other people are willing to come --

CHAIRMAN FASCELL: Mr. Roth, you're absolutely right. If you can figure out how to get him up here in open session --

MR. ROTH: Well by golly, we've got a CIA director, and we got a scandal like this going on and he won't come up here -- then I think we need a different CIA director, Mr. Chairman. (Laughter)

CHAIRMAN FASCELL: I may agree with that, but our arrangement--I'd like to respond, halfway intelligently. Our arrangement with the House Foreign Affairs committee in dealing with the director of the CIA has always been that he would come up either informally or otherwise with this committee in executive session because we don't have jurisdiction over that officer. Now, as far as the investigative matters are concerned, I'm sure that the director of the CIA will have to appear and he will be summoned and put under oath. I don't know about that, but as far as this committee is concerned, well that's the only way we could make the arrangement. I want to remind everybody that all the witnesses who are here appeared voluntarily, the arrangements by which they testified have been agreed upon. Nobody's been subpoenaed yet. At least all the one's who've agreed to be here, they've been here. So, I'd like to keep it that way for a while, anyway. Now, Mr. Broomfield.

MR. BROOMFIELD: Well, Mr. Chairman, I think the action that the committee has taken is proper, but I would like to indicate that Mr. Casey ought to be given the opportunity before a closed session, if he has a prepared statement he'd like to make to the committee and give us an opportunity to ask questions.

CHAIRMAN FASCELL: Well, you can certainly ask him when he gets here. Mr. Broomfield.

CONGRESSMAN : --(Off-mike)

CHAIRMAN FASCELL: Gentlemen, can we proceed with the business. Mr. Solarz.

MR. SOLARZ: (Off-mike) all of the witnesses have appeared voluntarily before the committee. I had been under the impression that Lt. Col. North, had, through his attorney, indicated a willingness to appear voluntarily before us later in the week. I am not informed that apparently he is not willing to appear voluntarily and that the only way, therefore, we'll be able to bring him before our committee is if he is subpoenaed. I'd like to ask, therefore, Mr. Chairman, whether you would be prepared to entertain a motion

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either now or at some subsequent point in our proceedings, to authorize a subpoena so that we can get the benefit of such testimony as he is prepared to deliver?

CHAIRMAN FASCELL: I thank you, Gentleman from New York. There were discussions going on. We were under the impression that he would voluntarily appear tomorrow. Now it appears that he might not. The gentleman is correct. The only way we could do it now would be to get authority to issue a subpoena. And the Chair is prepared to entertain the motion.

MR. SOLARZ: Well, Mr. Chairman, I'd like to make a motion then, pursuant to clause 2 M of House rule 11 and Committee rule 22, I move that the Chairman be delegated the power to authorize and issue such subpoenas as he determines necessary during the remainder of the 99th Congress. This, of course, would apply to Lt. Col. North and any other witnesses you think it appropriate for the committee to hear.

CHAIRMAN FASCELL: Any discussion? Any questions?

MR. BROOMFIELD(?): (Off-mike) consultation with the minority?

CHAIRMAN FASCELL: Absolute consultation with the minority. I would not undertake to do this on my own. I can assure the ranking member it will be with his knowledge--

MR. BROOMFIELD(?): And limited to the individuals we've discussed?

CHAIRMAN FASCELL: And limited to the individuals that we have discussed.

(A ROLL CALL BEGAN)

MR. : (Off-mike) --

CHAIRMAN FASCELL: We're talking about the ones that are on the witness list that is before you, except for Mr. North, who we could not put on the list at the time.

MR. : All right. Thank you.

CHAIRMAN FASCELL: So, we don't anticipate any new witnesses unless they voluntarily appear.

(THE ROLL CALL CONTINUED)

MR. : (Off-mike)

CHAIRMAN FASCELL: As soon as the vote is announced, Mr. Solomon.

CLERK: On this vote the "ayes" were 26, the "nays" were 0.

CHAIRMAN FASCELL: Mr. Solomon, state your inquiry.

MR. SOLOMON: (Off-mike) -- still not clear to me under what authority that we have this authority. I know my colleague from New York

cited the regulations. But he said the 99th Congress -- and I thought that the Congress had adjourned sine die -- and therefore do we still have this authority? It's a question I would just pose to you. I'm not objecting in any way.

CHAIRMAN FASCELL: I'll say to the gentleman that the 99th Congress is in existence until January 3, the constitutional date.

Q Thank you, Mr. Chairman.

CHAIRMAN FASCELL: Now what I would like to do to finish up with those who have indicated at the top bank (?) here that have more questions in open session is to follow the rule we've already laid down, which we've adhered to fairly well, two minutes. And so Mr. Michel is kind of called out of order, but that's my fault. I would like to go back to square one, Mr. McFarlane, and get something clear in my mind on-the-record, which is, what was your authority, operating as director of the National Security Council, prior to December 5th, to engage in Iranian negotiations? And what was your authority to operate, I gather, as a citizen, individual, after December 5th of 1986?

MR. MCFARLANE: Prior to my resignation, Mr. Chairman, I acted as an appointed official of the President, upon his direction, and within the bounds of US law and regulation.

CHAIRMAN FASCELL: Is that within the framework of a Presidential finding that had been issued at that time? Was it actually in existence while you were still in office?

MR. MCFARLANE: In the area of Iranian policy, it was pursuant to his decision taken in August of last year, and on the basis of any subsequent advice he provided, although there was none.

CHAIRMAN FASCELL: I see. The decision itself, the Presidential decision, was not a Presidential finding under the law which bypasses notice to the Intelligence committees. Or was it? I don't understand.

MR. MCFARLANE: It seems to me, Mr. Chairman, that it did have that standing, that it was a matter considered by the members of the National Security Council. The President reached a determination, a finding, if you will. And within the context of his authority under the National Security Act --

CHAIRMAN FASCELL: Then you carried out your duties.

MR. MCFARLANE: That's correct.

CHAIRMAN FASCELL: Now the finding is a written finding, is it not?

MR. MCFARLANE: The Attorney General, I am told, has earlier, before these matters occurred, determined that a finding in fact need not be a written finding, but a decision by the President being the key ingredient.

CHAIRMAN FASCELL: Is anything reflected on the minutes of the National Security Council? For example, is a vote taken? Or is this just kind of general collegial discussion based upon the osmosis of a Presidential decision drifting down to the NSC?

MR. MCFARLANE: Whenever the NSC meets formally, there is a note-taker present. When these discussions on this issue, normally my deputy accompanied me and would have made notes; pursuant to the time when I left government, I would assume the same practice occurred.

CHAIRMAN FASCELL: So all of those documents and notes are available to the investigative committee, I assume, if the administration continues its cooperation with the Congress. I've got another question, but I'll defer, since my time is up. Mr. Broomfield?

WILLIAM BROOMFIELD (R-MI): Thank you, Mr. Chairman. Mr. McFarlane, our strategic interest in Central America remains the same. Secretary Shultz indicated this morning that the establishment of a Soviet beachhead on America's mainland is a matter which continues to be of enormous concern to the United States. What, in your opinion, has to be done to advance the United States' interests in the Third World in face of significant Soviet commitments to thwart the best interests of democracies and the United States at every opportunity?

MR. MCFARLANE: Mr. Broomfield, I think this really goes to the heart of what ought to emerge from the committee's work here in the weeks and months ahead, and it's this, really: As important as it is to define the facts of what occurred on this issue, of transcendent importance is to determine how, in your judgment, the United States is supposed to compete with the Soviet Union to preserve its interests in developing countries; how, in the context of the Soviet Union being able to undertake policy actions which are not open to us; how, when the Soviet Union can carry on subversive campaigns and support of terrorism, and the United States, under our Constitution, is basically limited to doing nothing or going to war, can we expect, in developing countries, to be able to preserve our interests.

I think that, though a lot of time could and should be spent on this issue, that for Americans to say we should orient our efforts toward nation-building, toward economic development, toward providing jobs, schools, health care and so forth, is fine as far as it goes. However, there will be countries -- situations occur such as in Nicaragua today, where the level of Soviet presence and the degree of totalitarian rule is so advanced that these economic instruments that we have are too late. And the question must be

thoroughly debated, because it's clear we do not have a national consensus on the issue right now, and come to some terms on what our people will support in the way of trying to counter Soviet pressures, Soviet reliance upon means that are not at our disposal. And it would be a terrific contribution to the public good and understanding of this matter if the committee would make recommendations at the conclusion of these hearings on how can we compete with the Soviet Union in developing countries.

CHAIRMAN FASCELL: Mr. Yatron.

GUS YATRON (D-PA): Thank you, Mr. Chairman. Mr. McFarlane, regarding the back-channel communications with Ambassador Kelly, why was the Secretary of State not informed, and who made the decision not to inform the Secretary?

MR. MCFARLANE: Well, it seemed to me then, it seems to me today, Mr. Yatron, that he probably called and asked to come and see me with the Secretary of State's knowledge. There was no reason for him on, in the course of preparing to go to his post, to come out and talk to me. I'd been there for a long time.

CHAIRMAN FASCELL: Excuse me for interrupting. Will the gentleman yield from Pennsylvania?

MR. YATRON: I yield to the chairman.

CHAIRMAN FASCELL: I think the gentleman from Pennsylvania is referring to the statement made by the Secretary of State this morning in which he said that there were negotiations taking place by our ambassador in Lebanon while he was in Lebanon -- it doesn't refer to your conversation with him before he went to his post -- and that when he was there, he conducted all kinds of negotiations that were without the knowledge of the Secretary of State. And I was under the impression that he mentioned your name and Col. North and some other folks, and that his reporting process, he was instructed and directed not to report to the Secretary of State, but to report directly to the White House, and that he'd ordered the ambassador back; he'd ordered all of the documents be withheld in response to a State Department directive that went forward. And while the documents had been shredded in the normal course of business, which is done in a high-risk post, that he felt, if I'm quoting his testimony correctly, that copies would be available at the Central Intelligence Agency. So I ask the gentleman from Pennsylvania, that's the conversation you were talking about?

MR. YATRON: That is correct, Mr. Chairman. Mr. McFarlane, can you respond to that?

MR. MCFARLANE: I'd be glad to try. I think that to the extent that I was associated with instructions, if they were given not to report to the Secretary of State, that's simply an erroneous report;

because bear in mind, if this occurred this past summer, when Mr. Kelly first went to Lebanon, I was not in government, therefore did not have any authority to direct anybody to do anything, but would

not have if I had the authority. As far as I knew, the Secretary of State was involved and ought to be kept informed.

MR. YATRON: Well, Mr. McFarlane, one final question. As you said, Ambassador Kelly was confirmed and sent to Beirut in August of this year. Are you aware of similar back-channel communications with his predecessor in Lebanon, either when you were the National Security Council Adviser or after you left?

MR. MCFARLANE: No, I'm not. I've talked to Ambassador Bartholomew, and on occasion at the advice of the Secretary of State, because the Secretary and I and the Ambassador there were colleagues.

MR. YATRON: Thank you, Mr. McFarlane. Thank you, Mr. Chairman.

CHAIRMAN FASCELL: Mr. Gilman, did you have --

BENJAMIN GILMAN (R-NY): Yes. Thank you, Mr. Chairman. Mr. McFarlane, one of the underlying problems

has been the continual competition and the conflict between the National Security Council and the State Department. In recent days it goes back to when Mr. Kissinger was Security Council -- the executive in the Security Council -- and he had his problems with Secretary of State Rodgers, Mr. Brzezinski had his problems with Secretary of State Vance, and now we have a current issue. It seems to me that one of the underlying problems is the operational function of the National Security Council, the more recent operational function. It was never intended to be operational, it was intended to be advisory. And I know that our committee will be taking a good hard look at some of those definitions of responsibility in the days ahead. And I'm wondering if you have any recommendations about what we can do to avoid this kind of conflict in the future.

MR. MCFARLANE: Mr. Gilman that requires a fairly complex answer. Let me be fairly summary in the principles that ought to govern, I think, and they are, first, that there is a need for a manager within the White House to oversee the planning, planning as distinct from operations, functions of foreign policy. Most of that energy and management occurs in the early months, perhaps the first year of an administration where the foundation policies are set, and the National Security Council staff administers the direction to the community. And I call that State, Defense, C.I.A., the Joint Chiefs, Treasury, in each of probably sixty or seventy areas to go into each area, and sixty different directives are issued, in U.S.-Soviet relations here are the president's goals, examine the following questions, make recommendations on what the alternative policies for achieving these goals are, the cost, both fiscal and political, the risks, and report back within six weeks. And that work goes on and in the course of the first year you have accumulated the foundation of policy with the president having considered that report, reached decisions, and published, again in writing, all right, here's what I've chosen on U.S.-Soviet relations

and that is then the directive, that's policy. At that point the Department of State takes the lead in assuring that it's carried out. The operational aspects have been, should remain, within the Department of State. In 99.9 % of the time all operational aspects of foreign policy ought to repose in the Department of State. Ultimately 100%. That very very narrow area I would associate with when another government, not ours, because of its very fragile internal stability and the risk of violence to human beings, is trying to make a change and seeks to engage with the United States, and over time to come to terms. Now in that kind of circumstance the people involved are going to be terribly, terribly vulnerable. And to the extent that premature disclosure would make them even more vulnerable, it is appropriate, in my judgment, after involving the secretary of state, and defense, and the president, if he so chooses, to allow limited contacts to explore very promising possibilities, but there has to be a terminal time at which you evaluate whether or not it's proceeding well, and properly or poorly, and you make a judgment to turn it off or carry on. The second reason why that is important is not only to minimize the risk of disclosure, but because normally people in that condition in the

other country, whether it is China or Iran or some other country, need to have some confidence that the people with whom they are dealing in the United States are expressing the views of the president. And, again, I believe that that is a very very small area of policy and even when it occurs it ought to involve the secretary of state and other cabinet officers.

MR. GILMAN: And should be consultation, I assume, with the Congress.

MR. MCFARLANE: I believe that's true and I could give a long answer as to why I believe the Congress has to be involved, but I won't. I think, yes it does, I believe there are circumstances which for a limited period of time restricting it to this small circle of people is a reasonable thing to do.

MR. GILMAN: With just one add---just one added thought, then, should there be a definition of that very fine category where you feel there should be an exception to minimize the risk of disclosure. Should there be a definition of boundaries on that kind of operation?

MR. MCFARLANE: Mr. Gilman I truly respect why you say that and I believe this, however, that it is a better way to get at the problem of assuring timely congressional oversight is by the people involved. I think that there must -- this is really a very important issue here, and that is, that in the coming years, you, we, the American people make sure that the people who are in high office in the White House as well as in cabinet agencies, see as part of their job to make it a matter of course that the Congress is involved. And, again I could tell you why, but the point is that it's more the people who are doing things than it is a matter of black and white, rote or law.

MR. GILMAN: Thank you Mr. Chairman, thank you Mr. McFarlane.

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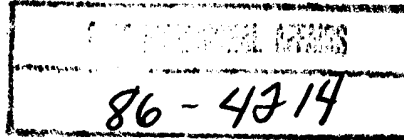
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- Monday, December 8, 1986

Testimony of Secretary of State George Shultz before the House Foreign Affai

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Committee

Briefing ID: 18115 (2059 lines)

TESTIMONY OF SECRETARY OF STATE GEORGE P. SHULTZ
BEFORE THE HOUSE FOREIGN AFFAIRS COMMITTEE
HEARING ON THE IRAN ARMS DEAL

MONDAY, DECEMBER 8, 1986
8:30 A.M.-EST

CHAIRMAN FASCELL: Will you please raise your right hand? Do you swear to tell the truth, the whole truth and nothing but the truth, so help you God?

SECRETARY SHULTZ: I do.

CHAIRMAN FASCELL: You're duly sworn, Mr. Secretary. Please have a seat. The committee meets this morning to continue its public hearings on the President's foreign policy initiative toward Iran and the diversion or the allocation of funds to the contras. The committee began its hearings on November 24, taking testimony from Deputy Secretary of State Mr. Whitehead. At that hearing, I made clear that the President's initiative raised very grave and unprecedented implications for the effective formulation, coordination and implementation of US foreign policy. So we continue to seek explanations of just what our policy is, what we hoped to achieve, who recommended it, where do we go from here?

The Foreign Affairs Committee, of course, is not the investigative committee of the Congress on these issues. The Special Investigative Committee agreed upon by the majority and the minority leadership of the House will have that role. Our duty is to carry out our constitutionally-mandated responsibility with regard to the formulation and implementation of US foreign policy. We will cooperate in every way with the Special Investigative Committee, the President's Commission and with the independent counsel.

The four hearings this week are designed to further advance this objective and to keep ourselves informed as a committee. We not only want to know what has happened but what corrective action can be taken to prevent further erosion of the foreign policy

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process. To the extent possible, we seek a public accounting of the facts and how the President and the Congress can work together to restore the public trust in American foreign policy.

We welcome Secretary Shultz to our committee and we look forward to a full explanation of the Department of State's role. Mr. Secretary, there are at least three major issues and probably a lot more. What was your role in the Iranian arms sale? What was your role in raising funds and their allocation for aid to the contras and what are you doing or what can you do to restore credibility for US foreign policy?

Now I'm pleased to recognize our Ranking Republican member, Mr. Broomfield.

MR. BROOMFIELD: Thank you, Mr. Chairman. This morning we begin a series of hearings that should assist the committee greatly in the review of US policies toward the Middle East, Central America and terrorism and its review of the effectiveness of the current organization of the US government for formulating and implementing US foreign policy. The Iran initiative apparently began with a good idea, namely, that the US should make an effort to try to improve relations with some moderate elements in Iran. I think that was a worthy objective, which we could have supported. But some of the means used in the effort to achieve that objective, such as arms transfer, were extremely ill-advised and mistaken. I remain gravely concerned that officials who thought that they saw a promise of quick success endangered long-term objectives of US foreign policy.

I think the greatest disappointment with this whole matter stems from the transfer to the Nicaraguan resistance of funds generated by arms sales to Iran in a manner the committee has yet to ascertain. Many of us in Congress, Mr. Secretary, both Republicans and Democrats, have worked very hard for years within the halls of Congress to secure congressional approval of US support for the contras. The strategic interests of the United States in continuing to stand with the Nicaraguan freedom fighters has not changed. However, recent events have placed congressional support for that policy in real jeopardy. Anyone presently or formerly in the US government who approved or knew of any arrangement to circumvent the law has done a great disservice to the President, the Congress and the American people.

I want to commend President Reagan for committing the Executive Branch to full cooperation with the Congress in its investigation. I, like the Chairman, hope we can move quickly and effectively to get all the facts and get to the bottom of this matter. With the President and Congress working together expeditiously, we can restore the faith of the American people in their government and set American foreign policy back on the right course. I welcome Secretary Shultz to the committee as we begin this process of restoration.

CHAIRMAN FASCELL: Mr. Secretary, please proceed.

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SECRETARY SHULTZ: Thank you, Mr. Chairman, members of the committee. Before I read my opening statement, let me just remark quickly on the two comments that have been made by the Chairman and the Ranking Member and I'll interweave my reactions because you both touched basically on the same things.

First of all, Mr. Chairman, Mr. Broomfield, you asked in one way or another about my role in the diversion of funds for aid to the Nicaraguan resistance. My role in that was zero. I know nothing about it until it came out so I won't have anything that I can contribute to your deliberations on exactly how that came about.

You asked about my role in the Iranian arms sales question and I will discuss that in my statement and in subsequent questions or, if you choose to have a closed session, in more detail on the basis of classified material.

As far as what I am doing to emphasize the forward look and significance of American foreign policy, first of all, I am firmly in support of what is taking place -- namely, the President's determination to make the facts available to the appropriate committees of Congress, to the appropriate investigative authorities, to deal with any wrongdoing and to get this material out promptly.

Second, I am working with the President and hope with the Congress to carry out the things that we're trying to do with American foreign policy. President Arias was here from Costa Rica last week. President Mobuto is here today and I will have to leave, as you know, in order to greet him at the State Department and talk with him. Later this afternoon, I'm off to Brussels to work with our NATO allies. So we are in the process of working at our foreign policy.

Mr. Chairman, this is the first time in my 10 years of service as a Cabinet officer that I have been asked to take an oath before Congress. I do so in good spirit, fully recognizing your authority to require an oath and your duty to ensure that the record of these proceedings is as full and true as possible. Taking an oath is something American citizens do every day. I regard this act as fulfilling my duty as a citizen to respect our laws and institutions. I want you to know, however, that when I was sworn in as Secretary of State, I took an oath, quote, "to support and defend the Constitution of the United States," unquote. I have always considered that solemn promise to impose a permanent duty upon me as Secretary of State always to tell the truth to the President, the Congress, the courts and, most importantly, the American people.:

In addition to being a citizen, I am at the moment a public servant. If a public servant is not prepared to tell the truth, he has no business being a public servant, oath or no oath. It is as simple as that.

Mr. Chairman, I am grateful for the committee's understanding that I must depart at 10:30 in order to meet with President Mubuto of Zaire, after which I will leave early this afternoon for Great

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Britain and Belgium for meetings with NATO foreign ministers.

The hearings you are holding, Mr. Chairman, come at a crucial point for the nation. The President has recognized that serious problems have been created in our conduct of foreign affairs by the manner in which some individuals implemented our effort to establish better contacts with Iran and by the diversion of funds from arms sales to the Nicaraguan Democratic Resistance. He has taken the lead in rectifying any problems that may exist. The President has appointed Frank Carlucci, a respected foreign policy professional of exceptionally broad experience and the highest integrity to revitalize and lead the National Security Council. He has instituted a senior level special review board under the distinguished leadership of John Tower to review the proper role of the National Security Council and the functioning of its staff.

He has recommended the appointment of an independent counsel to investigate the possibility of any wrongdoing regarding the Iran project. He has welcomed a unified congressional approach to its oversight role in these matters and has promised full cooperation with its inquiries. He has ordered me to implement an interagency study of our relations with Iran and that process is underway

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with the experienced leadership of Under Secretary Armacost. And, he has instructed his cabinet officers to share with the Congress and the American people all that they knew about the recent initiative toward Iran, which is why I'm here with you this morning.

Mr. Chairman, as you know, I'm ready to tell you everything I knew at the time about our sales of arms to Iran. The President has authorized the release of this information to Congress. I am not free, however, to violate the laws of the United States in the process. Much of the material that I knew at the time is still classified. I realize that some of this material has become public, but this does not permit me to confirm as facts some matters that have up to now been published without official authority. Furthermore, while it may seem difficult to believe, some of what I'm ready to tell you is still not publicly known. Finally, in addition to the problem of classified material, to tell you all that I knew in public session could well interfere with ongoing criminal investigations, would improperly reveal intelligence sources and methods, and would expose privileged communications.

All this pains me greatly. I have sworn to tell the full truth, and I am prepared to do so in a manner consistent with my legal and ethical responsibilities. This can best be done in a closed session where all my obligations can be faithfully fulfilled.

I want to put to rest now any doubts as to my readiness to respond to questions about my prior knowledge and activity. I have already made all the information at my disposal available to the FBI. I have been interviewed by the Department of Justice. I am

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ready in this open session to bring forward all the materials I properly can, and at whatever appropriate time you choose, I am prepared to make a statement and to answer questions in closed situation, giving classified details of my knowledge and activities.

Having said this, Mr. Chairman, I fully believe you have made the right decision by calling for an initial open session and stating that this particular hearing might concentrate on looking forward. I warmly endorse this purpose. We need very much to look forward, and I will do this in this testimony. I'll start by looking at our future relations in the Persian Gulf area. That subject is of crucial importance to the nation, and it easily warrants the limited time we have this morning, so let me turn to it with the hope of leaving time for your comments and questions.

The Persian Gulf is important to the United States and for many of our key friends and allies as well. A quarter of the free world's oil flows through the Persian Gulf, and an even higher percentage sustains the economies of our allies in Europe and Japan. It is vital that Western access to that oil continues. The region is a strategic focal point, on in which the Soviet Union has long sought to expand its presence and control. We have an important stake in denying to them such an expansion. We have a major political interest with the individual Gulf States, both in their own right and because of their influence on events in the Middle East, Afghanistan, and elsewhere.

Therefore, we want the states of the Gulf to enjoy a peace and political stability free from threats of Soviet intimidation, external aggression, or internal subversion. We wish to sustain productive relations with these states of the region, in part so that the supply of oil to the West can continue unabated.

But our strategic, economic and political interests in the Gulf have been and continue to be challenged from a number of quarters by war and political instability in the region; by the Soviet Union's brutal occupation of Afghanistan, and persistent efforts to expand its influence; and by terrorism. And Iran has come to be a most important element in all these considerations. The Iran-Iraq war, now in its seventh year, shows all too clearly how a continuation of regional conflict and instability can threaten not only our interests but those of many states friendly to us as well. And for that reason, the US has consistently worked for an early end to that conflict under terms which provide for the territorial integrity and independence of both belligerents.

In meeting the threat of escalating terrorism, we must also deal with the problem of Iran. The current Iranian government continues to believe that terrorism is a legitimate instrument of foreign policy. It has been prepared to employ that instrument when and where it suited its needs. It is in our interest to see that it is stopped. As the President has said, he authorized the transfer of some arms to Iran to send a signal that the United States was prepared to replace the animosity between us with a new relationship. That signal has been sent. No further arms shipments will be made to Iran by the United States, and we will exert all our

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influence to discourage arms sales to Iran by others. The reason is that it is Iran which refuses to end the Gulf war, and it is the capability of Iran to continue the war that we must address.

Iran cannot expect a better relationship with us until it acts to end the war, ceases its support for terrorism, and uses its influence with those who hold our hostages to achieve their freedom. Our dealings with Iran have been shaped by a strategic dilemma. We have a northern concern, to keep Iran free of Soviet influence, and a southern concern, to keep Iran from dominating its Gulf neighbors. Because Iran continues to resist Soviet influence but threatens the Gulf, our near-term priority must be to reassure Gulf Arab states of our support, and stand fast on our anti-terrorism and arms embargo policies. Meanwhile, we must use alternative channels to bolster Iranian resistance to Soviet influence, and focus on shared interests such as Afghanistan. Similarly, stability in the Gulf will affect our efforts to encourage meaningful movement in any peace process between Israel and its Arab neighbor.

Therefore, we have a legitimate interest in better relations with Iran, and the President determined last year that we should respond to approaches from elements within Iran to see whether Iranian leaders were prepared to shift their policies in a more positive direction. Last Saturday the President reiterated our

purposes; he said, "to end the war in the Middle East, to prevent Soviet expansionism, to halt terrorism and to help gain release of American hostages."

Mr. Chairman, I fully support every one of these purposes. I am sure that you in this Committee likewise support them. The problems created by recent events were not caused by these purposes, but by the way they were implemented in this one instance, and by certain unauthorized actions of officials on whom the President had relied to implement his policy. Facts being revealed have made clear, as the President has forthrightly stated, "that the execution of these policies was flawed and mistakes were made." The policies the President has reaffirmed are his own. He has made clear that it was neither his intent nor his policy to trade weapons for hostages, nor to undercut our stand against terrorism.

I fully support him in his policies. As a nation we must remain opposed to terrorism in every form. All terrorism, whether directed against Americans or others, is unacceptable and must be eliminated. That principle is central to our efforts to encourage broader international cooperation against state-sponsored terrorism. Therefore, we must continue to speak out and take action against all acts of terrorism. However much we share the anguish of the families involved, we must oppose concessions or ransom for the release of hostages. To do otherwise

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would encourage the taking of additional hostages, and would raise

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the value in the eyes of the hostage takers of those already held. And we must continue to strengthen our efforts with friends and allies in such areas as intelligence exchange and security measures to thwart terrorism and its attendant violence, and to isolate states which sponsor and support terrorism. With respect to Iran, the President has noted, "The Iranian Revolution is a fact of history. But between American and Iranian basic national interests, there need be no permanent conflict." He has also reaffirmed that it is not his intent to do business with the Khomeini regime as long as its policies threaten the peace and stability of the region. Here, again, I fully agree.

We must continue to encourage an end to regional hostilities and peaceful relations between all of the Gulf states. We seek a negotiated resolution of the Iran-Iraq war that respects the sovereignty and territorial integrity of all nations in the region. In working for the stability of the Gulf, we will continue to support the cooperative efforts of moderate and friendly states of the region to secure their own security and stability. We will oppose Soviet encroachment in the region, and seek an early end to its occupation of Afghanistan.

Finally, we must put recent events into proper historical perspective. The President has been here for six years. When he took over, the nation was neither as secure nor as confident as it should have been. Where do we stand after six years of President Reagan's leadership in foreign affairs? Working with Congress, and with the broad support of the American people, President Reagan's policies have brought us to a threshold of a new and remarkably different world, a world in which America's interests, America's pride and America's ideals are flourishing. What is this different world? Why is it cause for renewed confidence and hope for the future? Because we can glimpse now for the first time a world in which the incessant and pervasive fear of nuclear devastation is reduced. The threat of nuclear conflict can never be wholly banished, but it can be vastly diminished by careful but drastic reductions in offensive nuclear arsenals and by creating an ability to defend against them. It is just such reductions -- not limitations in expansion, but reductions -- and just such defenses that is the vision President Reagan is working to see make a reality. Only a few years ago, the democracies of the world were believed to be an embattled, shrinking handful of nations. Today, people struggling under oppressive regimes of the right and the left can see democracy as a vital force for the future. Vital but non-violent movements toward more open societies have succeeded. The failure of closed, command economies is more evident every day. A new wind of change is blowing. People who are ready to stand up for freedom, and have no choice but to fight for their rights, now know that Communism's march is not inevitable. President Reagan is a freedom fighter, and the world knows it. And I stand with Ronald

Reagan. Strong defenses, sound alliances and support for the free economic and political development of peoples everywhere -- that's what President Reagan stands for. His policies are not the policies of a party. They are the policies of all the American people. They are inevitable policies if our country is to remain the best and

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greatest on earth and the hope of humanity everywhere.

Let us show the strength of our free institutions by a full investigation of every detail of this Iran episode. But as we do so, let us unite, pull ourselves together and keep this country moving ahead to meet the dangers and opportunities of this moment. Thank you, Mr. Chairman.

CHAIRMAN FASCELL: Thank you, Mr. Secretary. Members of the committee, as you heard, we have the Secretary in open session today until 10:30. Our time is limited, but the Secretary has agreed to come back and give us fuller statements and allow detailed questioning of matters that may not be able to be discussed in open sessions. And it is obvious, of course, that we cannot complete this entire matter today. So -- Mr. Solomon, if you have to, go ahead.

MR. SOLOMON: I just was wondering, since there's a time limitation of 10:30 which we all understnad, I, for one, am quite anxious to hear what Secretary Shultz may have to say in the executive session. If we get through with that, will we reserve enough time for the executive session, is my questino.

CHAIRMAN FASCELL: It depends on how the questioning goes and what the judgment of the committee is at that time, Mr. Solomon. Thanks for trying.

MR. SOLOMON: Hoped you would keep it in mind.

CHAIRMAN FASCELL: In the meantime, we ---

SECRETARY SHULTZ: --- private little breakfast.

CHAIRMAN FASCELL: Well, Mr. Secretary, it started out weeks ago to be part of our usual effort with you to discuss in private over breakfast what we expected in the future. But a funny thing happened on the way to the forum. So the Chair will ask our members to -- we'll start out with, let's say, two minutes a member. That will give you a chance for maybe one question. See how it goes, and if we have more time, I'll go back around. And as I say, we're not going to complete all of this examination in one sitting, anyway. We'll have to depend on further time. And, also, remember, we are not the investigative committee. That's a matter for the special investigative committee on who, what, when and here. But it is proper for us to examine the Secretary of State's role, and the State Department and what-not. So I'll push the button for

myself and say, Mr. Secretary, everything you say in your testimony is obviously absolutely right, since you are a man of honor and told hte truth. But someone's zeal in this United States' government of ours in this Iranian arms deal has put the credibility of U.S. foreign policy at the lowest ebb that I know of. Now, it has been alleged that you were opposed to this Iranian initiative, Mr. Secretary. As a member of the National Security Council, Seretary of State, if you were, did you convey your concern to the President, and if you did, when did you do it?

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SECRETARY SHULTZ: I conveyed my concerns on many occasions, in two full meetings, another occasion, according to my records, and I don't think anyone involved in this is under any illusion whatever about my views.

CHAIRMAN FASCELL: I'm not sure I understand whether or not you conveyed your concern to the President or not.

SECRETARY SHULTZ: Yes.

CHAIRMAN FASCELL: In opposition to the Iranian arms deal. All right. Mr. Broomfield?

MR. BROOMFIELD: Thank you, Mr. Chairman.

SECRETARY SHULTZ: Let me comment on that Mr. Chairman. I supported and continue to support, as my statement indicates, the idea of trying to see if we can't rearrange the furniture a little bit insofar as Iran is concerned, and there are various ways to try to do that which I support and which is the President's basic intent. So I support his policy. However, when it comes to the use of arms, I have a different view. But I do believe that it is a legitimate subject for debate as a policy matter. The President listened to views pro and con, and he has said publicly that in the end he decided that he should send a signal -- I think that was his word -- to Iran to show our serious intent. And so he authorized some arms shipments to Iran for that purpose.

You can argue in favor of it, and the President has put forward the arguments in favor of it. You can argue against it, and various people have done so. Nevertheless, it is a legitimate issue, and the President made a decision about it. And that's one of the things you get the right to do when you get elected President. You get the opportunity to take those tough calls, and he stood up to it.

CHAIRMAN FASCELL: Mr. Broomfield?

MR. BROOMFIELD: Thank you, Mr. Chairman. Mr. Secretary, there are two aspects of this that really disturb me. The one is the arms transfer to Iran, which I felt was extremely ill-advised. My

question this morning deals with the transfer of funds to support the Contra effort. Over the weekend, we read about the Sultan of Brunei contributing large sums of money into a secret Swiss bank account to support the Contras. I wonder how many third world countries have done the same thing, who has control of this fund, and who handles it, basically. What knowledge do you have on that particular fund that circumvents what I believe is the spirit of the law in support of the Contra effort in Nicaragua?

SECRETARY SHULTZ: First of all, it would not be proper for me to talk about any particular third country, and so I will not do that. I did see a report in the press that during a visit to Brunei last summer, I raised this issue or sold the Sultan on transferring

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funds. That is not correct. I did visit Brunei. It was the only ASEAN country that I had not visited, and I wanted to visit each of them, just as I tried to stop in the Pacific Island states, and stopped in Palau on that same trip. There were no conversations with any Bruneian during that visit by me of this matter.

Having said that, let me go on and say -- first reminding you that in August, 1985, Congress approved \$27 million in humanitarian aid for the Nicaraguan democratic resistance. The funds were appropriated in December for obligations through March 31, 1986. At the time, the Congress expressly confirmed that, in addition to expending this \$27 million, the law did not preclude quote -- I'm quoting from the law that you passed, "activities of the Department of State to solicit such humanitarian assistance for the Nicaraguan democratic resistance." So it was a perfectly proper activity for the Department of State and for me to do that. There was nothing illegal about it. There is nothing improper about it. Quite the contrary, it was the policy of the United States, put into place by Congressional action signed by the President, after due debate, to provide humanitarian assistance and to permit the Department of State to solicit funds. We went about it very carefully and considered it last summer because, with the delays, you remember, in enacting the final appropriations, even though both Houses had voted, the resistance was having great trouble. They were incurring debts. They didn't have funds. And so, in discussions with Assistant Secretary Abrams, we tried to think through where we might properly solicit some funds.

We wanted to be very carefully that we lived completely by the spirit -- let alone the letter -- of the law, and didn't get involved with a country where it might be thought that we had tremendous leverage, say, because of our aid program or something of that kind. So we were very, very careful about that. And we did successfully persuade one government to make a contribution. So that is what we did. The discussions with the government were conducted by Assistant Secretary Abrams, but with my authority, explicitly. And I feel very good about anything that I can do to support the people in Nicaragua who are fighting for the freedom and

independence of that country. If you don't think it's of any significance, let me just read you, as a snippet, a little insight into what's going on down there from excerpts from a report I got the other day from our embassy in Nicaragua. And there are people in our embassy who've been around.

This is -- I'm just reading from this report. "The Nicaraguan Communists celebrated their anniversary this year on November 7, exactly the anniversary date of the Bolshevik Revolution in Russia. The Soviet motif was nicely carried through, as the special foreign guests here for the 25th anniversary were taken by the Nicaraguan hosts night after night to performances of the Bolshoi Ballet. Fragments of Swan Lake passed before the eyes of third world revolutionaries and rustic Sandinistas whose sensibilities to the expression and synchronization of the dance are, to put it kindly, imperfectly developed.

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"But Nicaraguans are getting used to all the Kremlin art -- both the arts of peace and those of war." Those of you who know our mission can probably figure out who wrote this. "For anyone who has been in Moscow's Red Square on November 7, what happened here on that day and the next was redolent with similarities evoking those sounds and sights. In Moscow, the November 7 parade was always worth very careful attention because it tended to reveal both what the leadership thought it most important to say about Soviet society, as well as some aspects of its true nature. All of the things present in Moscow -- or almost all -- were to be found in Managua on the day of its parade, November 8. Just as the Soviet Defense Minister begins the ceremonies by taking the salute of his troops, standing in an open car, before returning to the top of the Lenin mausoleum to join his colleagues for the march pass, so Humberto Ortega did the same in Managua to the recorded hurrahs of the troops. Then the parade began with various Sandinista units marching in tight, perfectly formed squares, using the (port arms?) tradition of the Soviet forces and the goosestep, borrowed from the Prussians by the last csars for their household regiments, but in our time sharply odorous of Nazi parades. Then came armored personnel carriers."

CHAIRMAN FASCELL: Is that a regular mission report to the Secretary of State?

SECRETARY SHULTZ: This is a special ---

CHAIRMAN FASCELL: I think we got the drift. Could we just put that in the record?

SECRETARY SHULTZ: Well, let me finish it, because I think you ought to hear it. "Then came armored personnel carriers, towed artillery and tanks. The only thing missing from the Soviet model were the intercontinental" ---

CHAIRMAN FASCELL: Mr. Secretary ---

SECRETARY SHULTZ: -- "missiles with the warheads painted red, which always bring up the end of a Moscow parade."

CHAIRMAN FASCELL: Mr. Secretary, I hate to interrupt you, but I'm constrained to ask you, how long is this report?

SECRETARY SHULTZ: I got one more paragraph. "The Nicaragua troops are uniformed exactly like Soviets. The Marines look just in from the Baltic fleet at Kronstadt. The infantry formations could have been Soviet regiments, uniformed in sand-colored fatigues from Afghanistan. The T-55 tank commanders in their leather helmets were directly out of a Soviet armored division, and the reservists carried in Soviet trucks with their wide-beamed Soviet helmets recalled the motorized rifle divisions one sees in the western military districts of the Soviet Union."

So that's what's going on down there.

CHAIRMAN FASCELL: Mr. Hamilton.

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MR. HAMILTON: Mr. Secretary, we appreciate your appearance here today. As I understand your testimony at this point, you said that you personally opposed the sale of arms to Iran. And secondly, you said that you did not know of the diversion of any of the funds to the Contras, until it became public, or shortly there before. I have two things I'd like you to comment on. Mr. McFarlane has said publicly, "I talked to the Secretary of State repeatedly and often of every item in the relationship with Iran."

And secondly, I'd like you to clarify for me what the Administration believes the mistakes to have been. The President has said, "I did not make a mistake. And then in his radio address the other day, he said, "Mistakes were made." I think it is important for the Congress to understand how the Administration analyzes this event. Was the mistake in supplying arms to Iran? Was the mistake in diverting funds to the

Contra? Was the mistake in not informing the Congress? Just what it is it that the President referred to when he said that mistakes were made.

SECRETARY SHULTZ: Well, very clearly, it was a mistake to get involved in the illegal arms transfer or funds transfer to the contras.

MR. HAMILTON: To the Contras.

SECRETARY SHULTZ: I don't know the ins and outs of that. I don't want to act like a judge passing judgment on what happened. I don't have the facts but from what I have seen and what the Attorney General said some things took place that were illegal and so that's clearly a mistake.

I might say it's not only a mistake because it's illegal, but it has confused the situation insofar as our support for the Nicaraguan resistance is concerned and unfairly to them because they have part in that and so it's a mistake from that standpoint as well.

I do not know in detail -- in fact, I don't know much at all -- about the arms transfers that apparently took place in the calendar year 1986. I know more about what took place during 1985 and I'm prepared in a closed session based on documents that I have, cable traffic and notes that were taken at the time -- and I don't claim that my notes encompass everything that I knew, but I've tried to stick in what I've prepared for a closed session the things that I could be pretty confident of, recognizing that in these things, when you go into them and you are questioned and people remind you of this or that, it jogs your memory. But at any rate, I knew that arms transfers to Iran were periodically considered after June, 1985 as part of an effort to improve relations with Iran and secure the release of our hostages. There was considerable discussion between Mr. McFarlane and I about that and at least on one occasion that I distinctly recall with the President.

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I learned not as a result of being involved in the development of the plan, but so to speak, as a plan was about to be implemented, I learned in various ways of two proposed transfers during 1985. But I was never informed and had the impression that they were not consummated. I later heard that one shipment had misfired, that is, it had been delivered, but due to Iranian rejection, the transfer of arms involved was not consummated.

I knew that in December, 1985, following a full-scale discussion of this matter with the President, that we instructed a mission that talked with the Iranians that were the interlocutors or representing themselves as the interlocutors, they were told, on instructions, that we would engage the Iranians in a dialogue if they release our hostages, but we would not sell them arms. That was an explicit part of the instruction that the President authorized. So there was, as you might say, a period of time, from more or less the middle of 1985 until this period following the December meeting in which there was a fair amount of discussion of the subject and I expressed my views during that period, in which some things were apparently structured -- I can't tell you exactly how -- but which, so far as I could see -- never came off.

And at the end of this process, after a full discussion, wanting to see the dialogue with Iran continue, but having become convinced that there shouldn't be an arms transfer connected with it, the instructions that I referred to were the instructions of the mission.

CHAIRMAN FASCELL: Mr. Gilman?

MR. GILMAN: Thank you, Mr. Chairman.

SECRETARY SHULTZ: I haven't finished, but I guess you want to

CHAIRMAN FASCELL: Well, go ahead.

SECRETARY SHULTZ: You go ahead.

MR. GILMAN: Did you want to finish, Mr. Secretary?

SECRETARY SHULTZ: Well, I was going to tell you things that I knew, but if you want to stop me, I'd be glad to go on to the next question.

CHAIRMAN FASCELL: We'd be happy to hear from you. Mr. Gilman will wait.

SECRETARY SHULTZ: The subject was reviewed again by the President in a full-scale meeting in January, 1986. This was not a meeting in which an explicit decision was stated. People made arguments. I made my arguments. However, I could fairly conclude from the meeting that the point of view that I thought had prevailed in December didn't seem to be prevailing. But it wasn't as though there was

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I learned in November that a finding was made authorizing, among other things, arms sales, but I was not informed of that finding at the time, so I can't tell you anything about the thinking that went into the finding as such. That came as a --

MR. GILMAN: The finding was in January --

SECRETARY SHULTZ: The finding was in January and I was notified of it at about the same time you were notified of it. I did not learn about any transfers of arms during 1986 in a direct way. But as is always the case, you have bits and pieces of evidence float in and so I weighed in on the basis of that, restating my views. What I heard was conflicting at times, that

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there was some sort of deal or signal in the works and at other times that the operation was closed down and, in fact, the word used at one time with me was that the people involved had been told to stand down. So again, there was this ambiguity from my standpoint.

I would say to you that I did take the position in part because of all the problems that we have with leaks and recognizing that if the President's initiative had any chance of success it would have to be a secret initiative for all the reasons that have been developed, perfectly good reasons that whenever I would be called upon to do something to carry out those policies, I needed to know, but I didn't to know things that were not in my sphere to do something about.

Now this past weekend our ambassador in Beirut, Mr. John Kelly, responded to an all-posts directive that we put out. We put out the directive from the State Department and I don't have the date of it, but shortly after this investigation started, telling our posts to discover anything that they had about this, to secure it, and to make it available here in Washington. So I got a response from Mr. John Kelly, and I will read his response.

"I met in Washington, in July or August, 1986, with Robert McFarlane, who briefed me on the hostage negotiations involving arms to Iran as an inducement. Between the dates of October 30 and November 4, 1986, I had numerous conversations with Lt.-Col. Oliver North and Richard V. Secord, relating to the hostage negotiations with Iran. During that period, I received and sent numerous 'back channel' messages to and from the White House, Admiral Poindexter, concerning the hostage negotiations. Those messages were transmitted and received in what is referred to as the 'privacy channel,' using CIA communications facilities. In accordance with our standard practice at embassy Beirut -- which they have to do, given the situation there -- 'all of that message traffic was destroyed thereafter, at my direction.' That is a standing order in a post like Beirut. Nothing wrong with that. 'I would assume that

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copies may be available at CIA headquarters, or at the White House Situation Room. With regard to my conversations with McFarlane, North and Secord, I stand ready to discuss them with appropriate officials, upon the Department's direction."

I have instructed Ambassador Kelly to return to Washington immediately, bringing with him all records of such activities, to be available to the FBI and other appropriate investigative bodies. I am, to put it mildly, shocked to learn this after the event from an ambassador. But, at any rate, I am just reading you this report.

"Throughout the entire period, I opposed the transfer of arms to Iran until Iran stopped the war in the Gulf, ended its support for terrorism, and obtained the release of the hostages. Throughout the entire period, I fully agreed with the President's objective of finding a way to modify Iran's behavior in a manner consistent with

our strategic interests and those of our friends in the region and around the world."

The President has confirmed publicly that he believed, in principle, in light of all the circumstances, that we should use a limited amount of arms to send a signal. There are legitimate arguments to be made in favor of this decision, and the President has made them, and I fully accept their legitimacy, and the legitimacy and propriety of the President's decision and right to make that decision, and support that.

It is difficult for me to talk about particular incidents, without violating security requirements, to give you a full accounting -- which, as I have said, I am perfectly prepared to do. But it must be done in a way that is proper. But I believe a review of the classified record, if you go through it with me, will support the statements that I have made; and it will also show that my knowledge of what took place was sporadic and fragmentary and materially incomplete. So I am not the witness to tell you all of the things that took place, because I'm not informed. Insofar as any question -- I'm repeating, but I want to repeat -- any question of diversion of funds to support the Nicaraguan democratic resistance, my knowledge was fragmentary. It was nonexistent.

CHAIRMAN FASCELL: Mr. Secretary, the committee will be happy to receive those classified documents and hold them according to the rules of the committee. Now by agreement I will bypass Mr. Gilman and come back to him, and ask Mr. Lagomarsino.

MR. LAGOMARSINO: Thank you, Mr. Chairman. I appreciate the courtesy of you and Mr. Gilman. I must leave right now to go to a Republican conference at which I have to preside, so I must be there at 9:30. My leaving is no way indicates my lack of interest in this matter, nor my respect for you, Mr. Secretary.

Mr. Secretary, has the United States government undertaken a counter-intelligence review of the Iran initiative and related events to determine whether the United States government fell for a covert action by a third country?

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SECRETARY SHULTZ: We are reviewing all of our efforts, what took place, carefully, and determining how best to go forward in support of the objectives the President has set out and which, as far as I can see, are broadly agreed to. But we want to make it clear to Iran that they cannot expect any fruitful relationship with us, as long as they fail to exert the influence that they undoubtedly can to get our hostages released and to stop terrorism. Now, of course, bringing the Iran-Iraq war to an end is a very important objective for us; and we believe that contacts with us or, perhaps, we can work with others who do have contacts with Iran -- can bring about some change. So far, there's little evidence of it.

But at any rate, we are reviewing matters carefully, and what materials have been denied to us in the State Department -- that is, certain materials collected by the intelligence community were not made available to us -- those are now available to us and this review is going forward, as I said, under the general direction of Undersecretary Armacost, at the President's direction.

CHAIRMAN FASCELL: Mr. Yatron.

MR. YATRON: Thank you, Mr. Chairman. Mr. Secretary, did the Interamerican Affairs Bureau at State have any knowledge of, or was it involved in the coordination of, funds for the Contras from the Iran arms sales?

SECRETARY SHULTZ: No.

MR. YATRON: Was the Bureau aware ---

SECRETARY SHULTZ: Let me say -- not to their knowledge. If there are some funds put somewhere that were useful, then they were trying to provide properly humanitarian aid, when that was authorized. And since the \$100 million was authorized, they have been involved in that. And there is an explicit Congressional mandate for the State Department to play a strong role in that, and we're trying to do that. But nobody in our bureau that I know of -- and I'm certain Elliott Abrams and his group had no knowledge of this Iranian transfer -- Iranian funds transfer question at all, zero.

MR. YATRON: Well, was the Bureau aware of the methods by which the Contras were receiving lethal aid

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during the period in which the Boland amendment was in effect?

SECRETARY SHULTZ: We don't presume to know everything that a person may do somewhere in the government. It was clear that from private sources, presumably, some aid was flowing to the people fighting for freedom and independence in Nicaragua. Personally, I applaud that. There's a lot of aid flowing from America to the

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Nicaraguan communists and quite a few Americans down there. That's there right to be. And it shouldn't be surprising that are Americans who want to help the people fighting for freedom.

MR. YATRON: Well, to what extent do intelligence operatives from other agencies apprise the bureau of their activities with respect to coordinating funding for contra operations and does the Assistant Secretary for Inter-American affairs receive such reports?

SECRETARY SHULTZ: He does and he chairs the interagency group that includes people from all of the agencies involved whose task it is to evaluate what is going on and to make recommendations, if needed for new legislation or what our policy should be and to oversee the tactics involved.

MR. YATRON: Well, one final question. From a management standpoint, are you apprised on a regular basis of the department's involvement in contra operations by Assistant Secretary Abrams and do these reports include summaries of the intelligence community's operations?

SECRETARY SHULTZ: Well, I see reports from time to time. I see Elliot Abrams frequently and so I try to keep abreast of what is going on as best I can. I have lots of things to keep abreast of, but I do try to stay informed and, of course, most importantly, to see that the people involved are strong, capable people and I put Mr. Abrams down as one who knows what he is doing.

MR. YATRON: Thank you, Mr. Secretary.

CHAIRMAN FASCELL: Mr. Gilman?

MR. GILMAN: Mr. Secretary, we appreciate your candid response and you've demonstrated once again why so many of us on the committee have full confidence in the manner in which you have approached this problem. I'm disturbed about the mistakes that were made, as many of us on the committee are, and I think one of the serious mistakes is a lack of consultation. And what I'm concerned about now in the disclosures you have made to us, since you did have some knowledge and since the State Department had knowledge prior to the event, why there was not consultation with the Congress. There are several statutes that require consultation, particularly Section 15 of the State Department Basic Authorities Act, which sets out the department's responsibility to keep us informed with respect to activities that are within our jurisdiction. Can you tell us whether you were under any constraint or whether the department was under any constraint not to reveal any of the information with regard to the Iranian arms sales?

SECRETARY SHULTZ: No, we were, of course, bound by decisions that would be made about something that was to be held in confidence, but as far as our measuring up to our responsibilities were concerned, we were engaged, you might say, in an argument about what should be done and there were these incidents that came along that I have pointed up for you without being in a position to, for various reasons, partly lack of knowledge, partly because of the

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nature of the open hearing here, to give you full information about them.

MR. GILMAN: But once the project was underway, didn't you feel that the Department had a necessity of consulting with the Congress with regard to these initiatives?

SECRETARY SHULTZ: Well, I don't feel that we should sort of bring all our internal debates to the Congress, particularly, on something like this. Of course, policy toward Iran, policy toward terrorism, all of these basic things that have been laid out, we have discussed here in the committee many times.

MR. GILMAN: But I'm not talking about debate, Mr. Secretary; I'm talking about the actual operation that was underway. Once that was underway and some of that was brought to the department's attention, wasn't there then a responsibility for the department to consult with Congress?

SECRETARY SHULTZ: Well, perhaps so. I'm not here to claim that my actions in all of this were all that they should be. You'll have to judge that for yourself and I can tell you what I knew and what I did.

MR. GILMAN: Just one other question, Mr. Secretary. You mentioned Ambassador Kelly's report to the CIA, but a failure to report to your office, is that an unusual or unique situation or something that's in violation of any of the State Department's regulations?

SECRETARY SHULTZ: I hope it's unique. Ambassadors -- there is a supposed to be -- I say supposed to be -- a chain of command that goes from the President, to me -- not to the NSC -- to me and through the Assistant Secretary, by and large, to the ambassador. That's the chain of command.

MR. GILMAN: And is that a violation of --

SECRETARY SHULTZ: And if something comes up that causes an ambassador to go outside of that chain of command, there needs to be a good reason. Now it may be very well that Ambassador Kelly will say that he was told on the authority of the President that he was supposed to do this and that and I would think that he would have checked with me to see if that were so.

MR. GILMAN: Who would enable such an ambassador to waive that responsibility?

SECRETARY SHULTZ: At this point, all I can tell you is the cable that I got. I don't consider it a satisfactory situation. I think we should recognize, however, what life is like in Washington. Now, come on, here we are -- who was it, the Canadian ambassador coined the phrase, "It's never over." Nothing ever gets settled in this town. It's not like running a company or even a university. It's a seething, debating society in which the debate never stops, in which P

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CHAIRMAN FASCELL: It's quite clear, it's very, very, almost impossible and incredible to bypass all of these institutions of government and the checks and balances built into our system in an effort to drive a policy decision.

SECRETARY SHULTZ: Well, I think it's also true, Mr. Chairman, than anyone in this town who does something, let's say, as controversial and who thinks it can be a secret, should have his head examined. (Laughter.) You should say to yourself, "Well, how am I going to defend this when it comes out. It's going to come out." Now I personally believe that there is

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a lack of discipline in the government, beyond what I remember when I was here before, which makes it difficult to operate. And there are things that should be done secretly and which should not be consulted about. I'll give an example. Last September, we were in

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the final throes of our negotiations on confidence-building measures in the CDE in Stockholm. Clearly, the negotiations was coming toward the short strokes, and the Soviets were beginning to adjust their position and it was clearly the time in the bargaining when we should try, with our allies, to strike a deal, if a good and reasonable deal in our interests was available, and we felt it was.

So, with the President's authority, we changed our instructions to our ambassador to give him some negotiating room. The new instructions promptly appeared in The New York Times, about the same time they arrived for our negotiator. So that pulled the rug right out from under him. You give away his negotiating position. You don't want to tell the other side that you're willing to do X. You want to hold that and get something for X. Then it just drives you crazy. The Ambassador got it straightened around, and we wound up with a good deal. But it was a very embarrassing and deleterious incident, and, of course, it makes other countries feel, how can they deal with us, when we have no capacity to do anything in a properly secret way. And there are lots of things that have to be that way, and which you shouldn't be consulted upon, because there's no need for that.

CHAIRMAN FASCELL: Mr. Solarz.

MR. SOLARZ: Thank you, Mr. Chairman. Mr. Secretary, for six years, the Administration has said it would never yield to the demands of terrorists, pay ransom for hostages, or sell arms to states that sponsor and support terrorism. It now turns out that we've done all three. How could this have happened? How much damage has it done to our credibility? And what assurances can you give us that it won't happen again?

SECRETARY SHULTZ: The President decided to give a signal. I'm just quoting the President here. He's made a public statement of what he authorized and why. He has acknowledged that in doing so he recognized that there were risks, as well as potential benefits. And he had to weigh that. And right now, because of the way this has blown up, the emphasis is all on the risks. I daresay that, if somehow, we had our hostages all returned and we saw a different kind of situation in one way or another emerging in Iran and this came out, people would say, "Well, the President showed guts. He took a risk, and he knew that if it didn't work out, he would get tanned, but he did it for a good purpose."

So I've told you what my opinion was. But I believe the President's decision was a perfectly legitimate decision. And at this point, perhaps in part because it all has emerged the way

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it has, it has not succeeded as he wished.

MR. SOLARZ: Mr. Secretary, just one other question on this point. Were you consulted or informed about the request of Lt.-Col.

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North to Ross Perot to pay \$2 million in ransom money for the release of our hostages, and is it conceivable to you that Lt.-Col. North would have made such a request without the approval of the President or some higher authority?

SECRETARY SHULTZ: I was not informed. And so far as I know, the President wasn't informed. But I have knowledge about Lt.-Col. North's activities in this regard. I think the offer of Mr. Perot, if that is what took place -- I don't know, I just read about -- I think it's outrageous.

CHAIRMAN FASCELL: Mr. Leach.

MR. LEACH: Thank you, Mr. Chairman. Mr. Secretary, you come before us as a man of very great integrity. You've been a good soldier, even when I think many of us considered Administration policies very, very wrong. In the past, when those of us have differed with us, the issues have entirely been those of judgment and policy. It appears today we have a political crisis that's become a constitutional confrontation.

SECRETARY SHULTZ: No, sir. I don't believe it's a constitutional confrontation at all. What the President has done is move out people who seem to be involved. He has put in a new and outstanding National Security Council director. He has appointed or asked for the appointment of a special prosecutor who he has said that he will make available to the Congress, and instructed me to come here and talk to you. Where's the constitutional crisis? There is no constitutional crisis?

MR. LEACH: It revolves around the issue of whether a war can be illegally prosecuted. But before getting to this, I was intending to say something further kind about yourself. In this confrontation, it appears to me that you and the Department have stood rather firmly on the side of law. And I personally think it would be ironic if your job were placed in jeopardy. Frankly, I hope it isn't true that the only thing worse in public life than being proven wrong is to be proved right when your boss is visibly wrong. But my question is ---

SECRETARY SHULTZ: I don't say that I've been proved right. It could very well have come out some other way.

MR. LEACH: May be the case. In any regard, my question is aimed at the future. We all know from history that leaders, when they're embattled, sometimes are prone to seek outlets in belligerency, sometimes even war. And my question is, that given

the great prospects for arms control, given the prospect, as well, that there might be an island somewhere, potentate somewhere that might be bombed, can you assure this committee that there is a good chance that we will seek peace and arms control as an antidote to this scandal, instead of some sort of outbreak of political or military crisis?

SECRETARY SHULTZ: Well, I can assure this committee that the

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effort to deal with the present Iranian matter that we're discussing here today is going to have nothing to do with decisions about arms control or other activities. Those have to stand on their feet. And what I was trying to do in my opening statement -- and I believe in doing so I was following what both the chairman and ranking member were recommending -- is to say that, in addition to doing the investigation, the important thing is to get on with the business, and to let the people who are supposed to do the investigating investigate. But let's not let it get put in the center of all activities so that we are paralyzed. We are not paralyzed. We are working hard on all of these issues, and including the issues of arms control. There, at least in my judgment finally getting up and on the table at least the numbers of dramatic reductions in intermediate-range missiles on an equal basis really fulfills the strategy and the tactics involved in the NATO dual-track decision. That was a big event -- and getting the numbers up and on the table and the beginning of counting rules and the beginning of some inner structure for drastic reductions in strategic arms, that represents a tremendous advance.

Now we are a long way from agreements, and so our task is somehow to capture that common ground that we arrived at with the Soviets and capitalize on it. I think that's a hard thing to do, but we are actively trying to do it. Max Kampelman spent last week in Geneva with his counterparts, for example.

SECRETARY SHULTZ: Mr. Bonker.

MR. BONKER: Thank you, Mr. Chairman. Mr. Secretary, as you know, this committee is primarily interested in the foreign policy implications of these activities, and specifically, where those activities were contrary to U.S. policy -- one, contrary to our official policy of our government of not shipping arms to terrorist nations; two, contrary to this administration's stated policy of neutrality in the Iraqi-Iranian war; three, contrary to the explicit policy of the Congress on not giving military assistance to insurgent groups which were engaged in the overthrow of the Nicaraguan government; and four, contrary to the enunciated policy of both the White House and Congress on efforts to get the allies to quit doing business with terrorist nations.

Now as the Cabinet officer who is responsible for the conduct of this nation's foreign policy, if you are telling us this morning, and I believe all of us feel you are stating the truth, that your role was zero or nonexistent, then how is it possible ---

SECRETARY SHULTZ: My role was nonexistent insofar as the apparent reported use of funds generated by sales of arms to Iran and the diversion of those funds to help the Nicaraguan resistance. I knew nothing about that. I did not say that I knew nothing about any of the other things. Quite to the contrary, I tried to tell you what I knew about.

MR. BONKER: I appreciate that clarification. Nonetheless, many of th

policies of our government. My question is, how is it possible for this duplicitous activity to go on? In other words, how is it possible that another agency, aside from the State Department, is engaged in activity or operations that are contrary to the official policy of the United States? Shouldn't the State Department assert its natural, constitutional, proper role over the conduct of the foreign policy, so we don't end up with contradictory policies that possibly confuse not only our allies but people here in America?

SECRETARY SHULTZ: First of all, the President made a public statement explaining his reasoning for sending a signal -- a signal involving arms transfers that you have characterized in various ways, and which have been widely characterized as such. There is a whole other side to that argument which the President presented, explaining to the American people and to you why he decided to send that signal, knowing full well the risks involved, but seeking an objective that, if it could be achieved, I am sure everybody would applaud. So that's a decision that the President made, legitimately.

Now insofar as the State Department is concerned, I believe it is correct to say that we do not have a foreign policy in the State Department. The President has a foreign policy. I work for the President, and we are engaged in the process -- and I am, by directive and by common understanding, and, I hope, by my association with the President, principal foreign policy advisor to him. But it is the President's policy, and it has always been clear to me -- and I try to keep it before me in my ten years of experience as a Cabinet officer -- that I didn't go out and get elected. The President did. So he's the boss. He's the guy that calls the shots, and I try to help him formulate policy and I try to help him execute it.

Now I believe that the conduct, the operational conduct of diplomatic activity should be lodged in the State Department; and by and large, it is. And if there is a lesson out of all this, insofar as how things operate are concerned, I think the lesson is that operational activities and the staff for conducting operational activities out of the National Security Council staff is very

questionable and shouldn't be done, except in very rare circumstances. The example is given of Henry Kissinger's diplomacy with China. And, of course, that's a spectacular -- everybody refers to it. And it was a wonderful thing. On the other hand, to the extent that it causes other people to aspire to be Henry Kissingers, it can get you into trouble. There is only one. They broke the mold when they made him.

CHAIRMAN FASCELL: Mr. Studds?

MR. STUDDS: (off-mike) Over these years, we've sat here in greta frustration not being able to find out what was going on. And now we learn, to our even deeper frustration, that not even the Secretary of State nor the President knew what was going on in some of these cases. And I don't mean that facetiously. I understand, and I sense some of the agony in what you've said.

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There is an op-ed piece, as I suspect you know, today in The Washington Post by the Director of Communications in the White House which comes perilously close to saying, and I think one could say does say, that the end justifies the means -- at least in the case of American policy in Central America. Mr. Buchanan says the President is right; Oliver North is an American hero; and he says things about his kidney and his spleen and his heart and his soul -- and when we cease to produce soldiers with said qualities that this country has gone into an irreversible decline. He calls him the Billy Mitchell of his generation. And the clear message of that piece is that, thank god, there is someone around here with the guts -- notwithstanding what the law or the niceties of the law may or may not have been -- to do what is so clearly, in the eyes of this administration, right.

Last October, Mr. Secretary, Mr. Abrams of your department told a subcommittee of this committee over and over and over again that the U.S. government -- no agency, no official of our government had helped to finance or to facilitate or to direct flights from El Salvador carrying military supplies to the Contras. Since that time, as you very well know, we've had a lot of disturbing reports. We understand that phone calls were placed to U.S. officials in Washington by those involved in the air supply operations. We understand the flights were closely monitored by military officials attached to our embassy in San Salvador. The same planes, the air crews, the secret landing strips were used by the State Department to send non-lethal aid as were used to send the military supplies. Our ambassador in Costa Rica apparently unsuccessfully sought permission to use a small airfield in that country to assist the flights. And all of the flights involved the active cooperation of the governments in El Salvador and Honduras with whom, presumably, we exercise some considerable influence.

I wonder if you could take this opportunity, first of all, to tell us what you knew and did not know about the extent to which

the United States government in that period was, indeed, involved in these flights; and secondly, would you associate or disassociate yourself from the implicit assumptions of the column by Mr. Buchanan that the ends clearly justify the means, and that disobedience and disregard for the law is justified when in one's own mind one is as sure as this President and his subordinates apparently are that they are right.

SECRETARY SHULTZ: I don't believe that a constitutional officer has a right to declare himself above the law. You have to carry out the law. In the various Cabinet jobs I've had, there are a lot of laws that the Congress has passed that I didn't agree with. When I was Secretary of Labor, I didn't agree with the Davis-Bacon Act, but I administered it as faithfully as I could. I made no secret of my view about it. But, nevertheless, you have the obligation to administer it properly and so on. And so any officer has that obligation, and there is no way to explain away a turning away from that obligation.

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Now I believe I have made myself clear, reading longer than the Chairman wanted me to, some stuff about what's going on in Nicaragua that I believe that the emergence on the American land mass of a Soviet Communist state is a threat to our security, and we need to take it seriously. And I believe in the votes of the Congress that have now put in place the program that we now have. There has come to be a general agreement about that. I fully recognize lots of people don't.

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And I believe there has come to be a perception of what kind of a regime the Nicaraguan regime is and there is very little argument about that.

So to the extent that I can properly lend a hand to the Nicaraguan resistance, you can count on the fact that I'm going to do it, as I testified earlier in response to a question about assistance, but I also pointed out that that was done absolutely in accordance with the law and I quoted the law to you.

Now as far as activities are concerned and exactly how they went on, I can't tell you that I know -- I don't keep track of all of that -- although I try to stay generally informed. And I think that you have to recognize that the program of humanitarian aid which was voted by the Congress necessarily has to get delivered to the people for whom it was intended. Right? You've got to get it there. You've got to account for it as best you can, but you've also got to get it there. If you didn't get it there, just kept it in the warehouse someplace, you would not be carrying out the intent of the Congress.

So you have to have some means of flying it in, dropping it off, or whatever. That's part and parcel of what the intent of Congress was and there should be no problem about that. Now intermixing it with arms is a problem, but I don't see any reason why there's anything wrong with an ambassador trying to see how he can help arrange or a military officer seeing how he can help arrange to have these authorized materials delivered to the people they were intended to serve.

CHAIRMAN FASCELL: Mr. Roth?

MR. ROTH: Mr. Secretary, I think one of the key concerns the American people have is this concern of the secret Swiss bank account. When you visited Brunei, the Sultan, did you know about that bank account at that time last June?

SECRETARY SHULTZ: I had no discussion of this matter with the Sultan or anyone else in Brunei.

MR. ROTH: Right. I know you had mentioned that to begin with, but I mean did you know of that account at that time?

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SECRETARY SHULTZ: I knew there was a method of -- there was a way -- in which a contribution could be made. Obviously, a country that you go to is probably going to want to do that secretly and so you have to have a way of doing it and I knew that there was such a way because we had been discussing the subject and trying to figure out, pursuant to the law and in accordance with the law, how we might get some funds to people, who, at least as far as we could see, were desperately in need of some.

MR. ROTH: Mr. Secretary, how did you learn about this, if it wasn't a Swiss bank account, that there was some method? When did you first learn about that? Was that at the very origin of this episode?

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SECRETARY SHULTZ: Well, you've got me sworn all ways to Sunday here. I have to be kind of careful how I answer. This is sort of off the top of my head, this question. But in the middle of the year, we had some discussions about the desperate need of the Nicaraguan resistance for funds. We were all aware of the fact that each body had voted funds, you remember, but the parliamentary situation was such that the flow of funds was delayed so we were trying to figure out, "How can we properly and legally do something about it?"

MR. ROTH: Mr. Secretary, when you say "we," who is "we?"

SECRETARY SHULTZ: "We" is me and my colleagues in the Department. Elliot Abrams, of course, had the lead responsibility and others in the department took part in the discussion, as we properly should.

MR. ROTH: You had mentioned numerous times you had talked with the President and you were opposed to this policy.

SECRETARY SHULTZ: No, I wasn't opposed to this policy. I was very much in favor of the policy of helping the Nicaraguan resistance, which is what you're asking me about.

MR. ROTH: I'm talking about the arms to Iran, Mr. Secretary.

SECRETARY SHULTZ: I was in favor of the objectives that the President was trying to achieve. I was opposed and very skeptical about the use of arms in that connection. But I believe that there are lots of things that we can argue back and forth about and there are legitimate arguments on both sides.

MR. ROTH: In this episode, we are going around in circles, I was wondering so often, you had the President's ear, do you think that it would be wise for the President to call the people in, whether it was Poindexter, North, whoever was involved and say, "Okay, fellows, what are the facts?"

SECRETARY SHULTZ: Well, I certainly would welcome finding out what the facts are and I think the sooner people can get the facts, the better. I don't know what the proprieties are. Both those

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people have sought counsel, as they're entitled to do as American citizens and they have, apparently on advice of counsel, decided that they are not going to discuss their activities and I don't know, maybe the President could persuade them otherwise -- I don't know whether it's proper to do that or not. Half of you are lawyers. I'm sure you would have a better opinion on that than I. But I would like to see as a citizen, let's get the dope out here, deal with wrongdoing, where it's found and let's get on the nation's business. That's what I'm trying to focus on.

(Bells sound.)

CHAIRMAN FASCELL: The bells are a call to the caucus. Mr. Mica?

MR. MICA: Thank you, Mr. Chairman. Mr. Secretary, as you know, you appointed me to your Commission on Terrorism. I served on it for 18 months.

SECRETARY SHULTZ: And we appreciated your service. You were a strong and effective and good member of that.

MR. MICA: Well, I thank you and I appreciated the opportunity, but I just would say that I feel somewhat betrayed, as I indicated to you, that for 18 months we were told that concessions were the only sure way to see more acts of terrorism and, indeed, now we see that concessions was a separate route.

SECRETARY SHULTZ: Well, let me, if I may, interject. The President has repeatedly said that it was not his intent to swap arms for hostages.

MR. MICA: I understand.

SECRETARY SHULTZ: Now when you have something that has a variety of objectives to it, these things can get mixed up.

MR. MICA: I understand.

SECRETARY SHULTZ: But, at any rate, he has stated his objectives and you know that because you have heard him.

MR. MICA: I understand that, but I just did note, for instance, that eight times in 12 pages or 13 pages of testimony, we talked about fighting terrorism, but for 24 months --

SECRETARY SHULTZ: Yes, I'm very big on that.

MR. MICA: -- for 24 months we worked on a bill and the group worked together and we find that the combined wisdom of every group that I worked with and you worked with recommended against this type of proposal and I would just indicate, too, that, as I recall, Colonel North sat on and sits still on the interagency group to combat terrorism --

SECRETARY SHULTZ: I don't think he sits still. He's never sat

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still. (Laughter.)

MR. MICA: Well, he sat on it. I think you're right there. But obviously, at that time, he was not telling us the information or giving the information to the State Department or not carrying back what had been said.

Three quick points I have, though. You've revealed here today that we have either a rogue ambassador or one who was directed not to tell you. I don't know what the situation is, but I hope you can report to us as to what is done about that. Secondly --

SECRETARY SHULTZ: Well, I've already reported to you that we sent out an all-post directive promptly, he responded fully and in good faith, and he has been --

MR. MICA: But we don't know who directed him not to talk to you.

SECRETARY SHULTZ: -- and he has said that he is ready to make his information available. So we'll find out.

MR. MICA: The Miami Herald has reported yesterday that the United States government had direct information that Iran paid \$2 million, I believe, for the killing of our Marines in Beirut, and we had this information at the time that this policy was initiated. Is that correct?

SECRETARY SHULTZ: I'm going to pass on that because it's a very specific question and I want to be sure that you get an accurate question. The fact of the matter is that Iran is a country on our terrorist list. We know of many acts of terrorism with which Iran, in one way or another, seems to have been connected. And "connected" can include training people, providing funds, providing equipment, providing safe haven, as well as some specific acts, such as the El Al case that the British courts have brought forward. So there are a lot of aspects to it.

Now it does seem to be true that, for some period of time, over a year, there weren't Americans taken in Beirut. And so there was some evidence -- and I think the President has pointed to that -- that conceivably shows the beginnings of a modification of Iranian behavior. But, at least as the information that I have suggests, the Iranians -- at least in some fashion -- have been involved in the most hostage taking of Americans, and they are involved in cases with other countries. And I make the point to you that we have to be, of course, particularly concerned about Americans but, if we're going to have an impact internationally in the fight against terrorism, we've got to view it internationally and we've got to be as concerned about terrorist acts against others as we are against ourselves.

CHAIRMAN FASCELL: Mr. Wolpe.

MR. WOLFE: Thank you, Mr. Chairman. Mr. Secretary, you indicated in the course of your remarks with respect to the transfer

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-- the arms transfer to Iran -- that where you disagreed with that tactic and with the transfer itself that you felt it was, in fact, a legitimate foreign policy question, and it was legitimate -- I think that was your word -- that the President consider that approach.

Would your view be the same if it were to be found that that arms transfer to Iran, particularly the one that took place before the January finding, was in violation of American law?

SECRETARY SHULTZ: Well, there's no -- I've gone over that -- the question of violating the law, there isn't any authorization, I think, on anybody's part to violate the law. There are certain constitutional rights the President has, and there are various directives dealing with this subject, including directives in the national security field, as distinct from the direct arms transfer field.

MR. WOLPE: Why, then, would it be a legitimate question for the President to consider an arms transfer, if it were, in fact, in violation of the law? I thought it might ---

SECRETARY SHULTZ: Well, first you have to know -- first of all, there is the question, Should we seek privately in some manner, designed to be as effective as possible, some different kind of arrangement that we hope might change behavior in Iran. The answer to that question was thought by the President's advisors, including me, to be yes. And as the discussion has proceeded, listened to members of Congress and others, by and large, people and agree, that's the proper thing.

Now, then, the question comes, Should the possibility of change in our willingness to sell arms, at least to the extent of giving a signal, be in play, tactically? So that can be debated back and forth, and the President has said publicly that he judged that the objective was worth giving the signal. And I've said that's a legitimate judgment to be made. Now, having made that judgment, you have to see to it that you execute it in a proper way. And I presume that was the thinking of the Attorney General and others in the January finding.

MR. WOLPE: Should there ever be a covert policy in conflict with the overt, open policy of the United States government?

SECRETARY SHULTZ: Well, you have -- you have multi tracks often in your policy; and I don't think they are necessarily in conflict. You try to complement one with the other. Some may say they are in conflict. But ---

MR. WOLPE: We had an open, public -- in fact, established statutory policy of not providing arms to nations, and Iran specifically on the list of nations, that condoned or practiced state terrorism.

SECRETARY SHULTZ: We also have other statutes on the books,

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nad we have authorizations under the -- whatever it is -- the National Security Act -- to do things in connection with other objectives. So it isn't as though the statutes of the United States give a clear and unambiguous picture with no -- one not conflicting in any way with others.

MR. WOLPE: Mr. Secretary, my last question. Have you any knowledge of the use of proceeds from the sale of arms to Iran in Angola, Mozambique, Ethiopia, or any other African country, in line with the reports that have been made in The New York that high U.S. officials have found some evidence that money was transferred, at least to Angola?

SECRETARY SHULTZ: I have no knowledge of that, just s I have no knowledge of any transfer to the Nicaraguan resistance. My warning flag went up once when I heard about an arrangement that I was told was not any such arrangement that seemed to suggest that there might have been something going -- not necessarily to Angola, but to other countries.

MR. WOLPE: In Africa?

SECRETARY SHULTZ: In Africa. But no -- but this did not have in mind anything like what seemed to be described or what we're learning about the Contra fund diversion.

CHAIRMAN FASCELL: Ms. Snowe?

MS. SNOWE: Thank you, Mr. Chairman. Mr. Secretary, your presence is very important here today because obviously we need to understand the decision-making process that led to the decisions concerning the arms shipment to Iran, as well as the diversion of funds to the Contra.

There are several issues that worry me that obviously cannot entirely be addressed here today. But I think these committee hearings are beginning. And some of these issues cannot be cured by legislative remedies, because it's a question of trust -- trust in the Executive branch to implement the laws that were enacted by Congress; trust by the President in the American people that those people in a position to implement the law and the policies will, in fact, do so. And I'm concerned what spawned the mechanism within the Executive branch that would focus on circumvention of law, or to disregard the trust that's necessary between the Legislative and Executive branch, as well as between the government and

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the American people. Mr. Secretary, you said here today that you made certain arguments before the President on your January 7th meeting concerning the arms shipments to Iran. What I would like to know is, when you made those arguments, I would like to know what they were and were you opposed to the arms shipments to Iran because it was bad ^{violation of the law,}

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and secondly, I would like to know what the President's response was to your arguments and specifically if it did entail violations of the law. And finally, you said that you were not aware of the arms shipments to Iran until November when we were all informed, but at the same time, you had fragmentary knowledge that this might be occurring. Didn't you think it was your responsibility as the Secretary of State to follow up on that information to find out exactly what was going on and also didn't you feel that responsibility to raise your concerns again with the President, knowing that you had some information that bears upon this issue in providing arms shipments to Iran?

SECRETARY SHULTZ: Well, you've asked me -- I lost track -- about 50 questions. Maybe you can identify the one you want me to answer.

MS. SNOWE: I want you to answer, on what basis did you make your arguments to the President? What were your arguments? On what basis did you make your arguments? Was it on the basis of thinking it was bad policy to send arms to Iran or secondly, because it was a violation of the law and what was the President's response to those issues?

And finally, why didn't you attempt, as Secretary of State, to find out and follow up on the fragmentary knowledge that you did have on arms shipments to Iran that were occurring?

SECRETARY SHULTZ: First of all, insofar as the law is concerned, the finding is the way of dealing with that issue and it is, so far as I know, a lawful finding and under that finding what was done, so far as I know, was legal. The Attorney General was involved and so that's the answer to that question. Now, insofar as the diversion of funds is concerned, if that took place, then that was not a legal thing to do. That was a violation of the law. The President has made it clear that that was not his policy and was not something that he knew about. So that's the answer to that question.

MS. SNOWE: Well, Mr. Secretary, I guess what I'm asking you is whether or not you mentioned to the President on the January 7th that the arms shipments to Iran could represent a violation of the law.

SECRETARY SHULTZ: The question of the law was raised in the major discussions and the point was made, and I think everyone agreed, that if anything is to be done, it has to be done in accordance with the law. However, that's not -- and that you

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sort of take for granted. That's a necessary condition. But the focus of attention insofar as I was concerned, was primarily on what the arguments were and are against an arms shipment to Iran -- the policy implications of it. They've been well brought out, just as the President's side of that argument has been well brought out. It's debatable and it was debated and one of the things the President does do on issues is hear the debate. So it's a

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legitimate debate and I don't need to review all of the arguments. You know what they are. Half of the questions here have dealt with them.

Insofar as, was I energetic enough in trying to find out what was going on and keeping weighing in on it, you'll have to judge that for yourself. Obviously, as in anybody, you search back and you say to yourself, "What could I have done differently that might have changed the situation?" At times, when I learned about something I thought was way off the rails, I did weigh in and there were a number of places in the chronology of this in which it seemed to me that the negotiations that tended to have arms connected with them had stopped, had been stood down. So I was glad to know that. I gave an example of one in the December instructions.

So I am perfectly willing to accept criticism for not doing as much as perhaps I should have done and I rack my brains about that, kick myself here and there. I'm probably more critical of me than you are. I'm kind of a tough critic on myself.

CHAIRMAN FASCELL: Mr. Gejdenson?

MR. GEJDENSON: Thank you, Mr. Chairman. Mr. Secretary, during these discussions with the President, was there concern about the notification provisions to Congress?

SECRETARY SHULTZ: Well, of course, I didn't know about the finding. It's the finding that had -- and that is a legitimate thing in delaying notification. But I was not involved in that debate so I can't really -- I'm not the right person to ask that question.

MR. GEJDENSON: So you're saying that at the discussions that you were involved in, at no time was there a discussion about the necessity of the President or the President's people notifying the appropriate committees before Congress?

SECRETARY SHULTZ: Well, there was a discussion of the legalities and the importance that whatever was done, be done properly and legally.

MR. GEJDENSON: And in those discussions, did somebody say at some point, "You've got to go to Capitol Hill and tell them what's going on here?"

SECRETARY SHULTZ: Certainly.

MR. GEJDENSON: And was there concern raised about the --

SECRETARY SHULTZ: That's part of the process that's established in any arms transfer situation.

MR. GEJDENSON: And in that discussion, was there a time frame discussed, that "We have to do this within a certain amount of time."?

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SECRETARY SHULTZ: I don't recall the discussion well enough to respond to your question fully.

MR. GEJDENSON: Do you, Mr. Secretary --

SECRETARY SHULTZ: And I was not involved in the discussions that took place among those who put together the finding, and implemented it. So, I can't really help you on the interpretation of that particular phrase.

MR. GEJDENSON: Do you believe, Mr. Secretary, that 18 months is timely notification of the appropriate committees of Congress?

SECRETARY SHULTZ: Well, this goes back to last January, it's not 18 months -- that finding. And, the people who have been involved

argue that the President properly had that right, and I think that's established.

MR. GEJDENSON: Do you, Mr. Secretary, believe an 18-month delay in notification of Congress is a timely notification?

SECRETARY SHULTZ: The finding was not 18 months ago. It was in January. And there was an ongoing process --

MR. GEJDENSON: Do you believe that 9 months is a timely notification?

SECRETARY SHULTZ: -- that I was not, by any means, fully aware of. And the --

MR. GEJDENSON: I understand --

SECRETARY SHULTZ: And the problem that the people that the people conducting it continually faced was: if our chances of success are to be maximized, this must be done secretly.

MR. GEJDENSON: I understand their concern --

SECRETARY SHULTZ: Second, they confront the fact -- and I don't say this as a comment about the Congress -- but they confront the fact that as you add additional people who are knowledgeable about what is going on, you increase, exponentially, the risk of the secrecy being blown.

MR. GEJDENSON: Mr. Secretary, as colleagues are pointing out, there was a significant amount of activity before the finding. But I want to put all that aside. We understand what the law is. The law says there has to be a timely notification of Congress. When that became law, presidents understood the problems that as you increase the number of people that know, you increase the possibility word may get out. But we have the law to deal with. And if part of the work of this committee is to make that law more workable, I guess what we have to find out is, what do you consider to be a timely not

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SECRETARY SHULTZ: So far as I know, there have been two instances where a deviation from prior notification and consultation has taken place. One was the case in President Carter's administration, of the effort to have a rescue of our hostages in Iran. And that was carried out without prior notification, so I understand it, on exactly these grounds: that if you notify, the more people you notify, the more chance of leakage, and so on. I wasn't involved in that, but that's what I've been told.

This, again, was a case where the President felt that this could not be done publicly. If it were to be done, it had to be done secretly. And that if you, it became public, you would jeopardize the effort, and you would jeopardize the lives of some of the people involved. And so, it was apparently ongoing. I'm not the person to testify before you about the ins and outs of this. But, it was ongoing. And there were, and judging from the cable from Ambassador Kelly, right until very recently --

MR. GEJDENSON: Do you think --

SECRETARY SHULTZ: -- prospects of something different happening. So, that is the reason why the notification didn't take place.

CHAIRMAN FASCELL: The gentleman's time has expired. Mr. Solomon?

MR. SOLOMON: Mr. Secretary, I see the time is approaching. You just have a few minutes and you have to leave. And I understand that, and I will probably reserve my questions. And what I wanted to do in the first place was to devote at least half of this time to an executive session, because I really think that the committee has the cart before the horse. It seems to me that you are put in a very extenuating circumstance, as was President Reagan when he held a press conference not so long ago, and was severely criticized by the press because he had to be very careful about what he said publicly because of legal restraints on classified information. And I think that all of us should have had that information under our belts before we subjected you to answer the questions, I think we could have properly approached the questions.

So, I want to commend you, you know. You and I have differed on issues such as the China-US communique. I disagree with the President occasionally on things. But you're sticking with the President, and I'm sticking with the President, because I believe him and I believe in him. And I'll save my questions for the executive session. Thank you, Mr. Chairman.

CHAIRMAN FASCELL: Well Mr. Secretary, we want to thank you for joining us today. And as you can tell, more questions have been raised than can be answered right now. But we appreciate your willingness --

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writing to the Secretary?

CHAIRMAN FASCELL: If members would like to do so, we'll make a record available for that purpose. I would hope, however, that we could continue this more in depth in the executive session. But I will -- certainly, the gentleman has a right to submit questions at this point.

Let me say, first of all, Mr. Secretary, that we thank you very much for your willingness to tell us all you know. It seems quite clear at this point -- if we could just wait a minute, I have some other announcements to make -- that you can't run foreign policy

successfully by bypassing your Secretary of State, and the Secretary of Defense, the Joint Chiefs of Staff, the National Security Council, and the Congress. You might be able to do something in secret for a short period of time that is essential for the security of your country.

But without waiting for all of the evidence to come it, it is quite clear already that an operation of this size, having this sensitivity, in impacting on so many laws of the Congress, and fundamental decisions of our society with regard to checks and balances and wisdom that is available, is not a good way to operate. And I'm sorry, frankly, that you've been put in that position as Secretary of State. Because I know that you've done your level best to administer the laws and to be faithful and loyal to the President of the United States.

But this is a country of laws and not of men. And as you have said yourself, nobody, no one, is above the law. So we'll wish you well on your trip, and we'll see you as soon as we can get together on a date to continue this matter with the Foreign Affairs Committee in executive session.

Now, let me tell the members that it is my intention to proceed with the questioning of the next witness as the point where we left off today, so that everybody has a fair opportunity to get some of their questions answered. There has also been this meeting of the Foreign Affairs Committee scheduled at 11:00. We'll have to postpone that, because we'll be voting in caucus any minute now. That business meeting of this committee will be scheduled at 1:00. I ask all of you to please attend, at 1:00. We have some business to attend to. At 2:00 will be our next witness, Mr. McFarlane. Mr. Broomfield?

MR. BROOMFIELD: Mr. Chairman, I asked that a GAO staff paper on Iran-related legal issues with a committee staff technical addendum be placed in the record at this point.

CHAIRMAN FASCELL: Without objection, so ordered.

Q I object.

CHAIRMAN FASCELL: The Committee stands adjourned.